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THE PRESENT POSITION

OF THE

HIGH-CHURCH PARTY

IN THE

ESTABLISHED CHURCH OF ENGLAND

CONSIDERED IN A REVIEW OF THE

'CIVIL POWER IN ITS RELATIONS TO THE CHURCH'

by J. W. Joyce

AND IN TWO LETTERS ON

THE ROYAL SUPREMACY

AND THE

WANT OF DOGMATIC TEACHING IN THE REFORMED CHURCH.

BY WILLIAM MASKELL, A.M.

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PREFACE.

A FEW WORDS may be allowed as a preface to the following pages.

Nearly twenty years have passed away, since I published anything in my own name, in the way of controversy, upon the great religious questions which have, now, long agitated the mind of the people of England. Having decided upon the course which I thought it to be right to take, it seemed not improper for a time to look on, and be silent. No proof of a man's opinion, or of his belief of what his own conscience and duty towards GOD require of him, can be given, greater than the acknowledged fact that he has left the Church or communion in which he was born and bred. As regards others, also, all the arguments in the world fall short of it in their effect.

One of the last books which I published, in 1850, was an enquiry how far the Established church is committed to the authority of the Royal Supremacy; and, consequently, to the acceptance of the Judicial Committee of the Privy Council as a final court of appeal. Since that time, there have been frequent occasional letters and short articles in periodicals on the same subject, by many writers on both sides. Besides these, two books: both of them going into

details of the history and powers of the existing court, but both curiously avoiding the true difficulty in the matter. These are; the one, a volume called 'Ecclesiastical judgments of the judicial committee of the privy council in cases of doctrine and discipline, 8vo, 1865;' and the other, the recent book by Mr. Joyce, which I propose to review.

The consequences which, as they appeared to me, were necessarily involved in the constitution of the Judicial Committee, and its authority as the court of appeal in causes of doctrine, had very great influence in determining my own decision, in 1850. It was not the sentence upon any particular doctrine, which in itself seemed to be sufficient: neither was it, alone, the source from whence the court derived its jurisdiction. The subject-matter also, purely spiritual, with which it had to deal, and (when carefully examined) the character of the religious formularies—laws and statutes of the realm—which are the sole decrees on which its judgments must be based, forced me to the only possible conclusion with an overwhelming conviction.

As in 1850, now again, after so long an interval, the attention of men generally, and especially of the Established clergy, is directed to these questions. Then, the point turned upon the doctrine of baptism; now, upon ceremonies connected with the sacrament of the Lord's Supper. Arguments, however, and objections which sprang from the first case are no less applicable in the consideration of the last: or, I may say, of any other cause, involving doctrine, decided by the Judicial Committee.

I trust that it may, therefore, be thought excusable to attach to the review of Mr. Joyce's book a reprint of the two Letters, already spoken of, on the present position of the high-church party (or Ritualists) in the reformed Church of England. When originally published, they passed through several editions, and have long been out of print. Probably they have been long forgotten. It is from no absurd vanity that the author of them repeats—as he said nearly twenty years ago—that the argument of neither the one nor the other has been fairly met or really answered. To pretend that it is otherwise would be to give up the battle. Mere vanity (in having, as it were, the best of it) can have no place, where the subject in dispute is of a nature so solemn, and concerning obligations and duties which determine man's future fate through all eternity.

I have omitted some pages in each Letter, having reference to myself, and of no interest except at the time.

In a pamphlet, about the year 1848, against the late dean of Ripon,[1] I said that, however we might differ, it would be my desire to write without giving unnecessary offence, and to keep within the bounds of Christian controversy. And so, endeavouring to observe the old rule, let me say the same to Mr. Joyce. Every one is entitled, as plainly as he can,

[1] I must take this opportunity of expressing the sincere regret with which I heard of the death of Dr. Goode. He was, by far, the most learned and able of the evangelical school of writers. We became personally acquainted; after we had quarrelled in print, and because of the quarrel.

to enforce his own arguments and objections; and an author who is criticised must be prepared to listen to much which will be less pleasing to him than flattery. But I hope that in the review, below, there is nothing which he will regard as personally uncourteous or unkind.

Coming again before the public, I must expect to hear some such remark and question put to me as this. 'In 1850 you did your best to disturb the faith of people in the claims of the reformed Church of England. You are doing the same, again, after a long silence. You left the national Church. Are you still satisfied that you then did rightly? Do you still hold the same conviction as to your duty—and if yours, our duty also—towards the Church of Rome?'

It is a fair question, and it shall be very distinctly answered.

I have never doubted for one instant, since I became a Catholic, that I was right in leaving the Established Church. I have never doubted as to the claim of the Catholic Church upon the obedience of all men. I do not believe that the reformed Church of England, or any other (so called) church, has any claim; and I do believe that she is in deadly error, and schism, and heresy. I would not recall, nor have I ever even for a moment wished to recall, one single act by which under the grace of God I was led into the communion of the One Holy Catholic Church.

Many circumstances which have caused discussion both within and without the Church have occurred

since 1850. I suppose, however, that of these, two only would be mentioned as at all likely to affect the previous convictions of any one. And I shall endeavour to speak plainly upon both of them.

One; the temporal power of the Pope. No one can believe this to be essential, in the slightest degree, to the just authority, and some may doubt whether even to the well-being, of the Catholic Church. To myself it is, almost, a matter of indifference. I can find no claim which the Holy Father has to his earthly dominion other than, or beyond, that of any other sovereign of Europe. As it seems, he has the same right, neither more nor less than they: in other words, neither his nor theirs is a Divine right. It is for the people of the Roman States to decide whether they are content to remain under his government or not. No reason has yet been shown why they are not entitled to change it, if they think it well to do so, just as much as Frenchmen half a dozen times this century, or Englishmen in 1688.

The other: the truth of the Immaculate Conception. This, as a doctrine, always appeared to me to flow, naturally and as a most certain consequence, from a right acceptance of the tremendous mystery of the Incarnation. Nevertheless, in earlier days, men who rank amongst the highest and most saintly of Christian doctors did not so regard it. In our own time, the consent of all theologians had long been unanimous upon the question, and the demand everywhere for a definition of it had continually grown more and more urgent. So much so, that when the decree or bull of 1854 was

published it seemed to add but little to the certainty of the doctrine. An Ecumenical Council has been summoned, and will soon meet at Rome. We cannot imagine that it will separate without a further testimony and witness—equal in authority with the voice of God Himself—to the truth of the doctrine of the Immaculate Conception.[1]

The whole question, however, has been put so clearly by the greatest living English theologian, that it is best to quote his words.

Having shown the need of some authoritative voice to control the constant tendency of mankind to unbelief, he finds the 'prerogative of infallibility in religious matters to be the very claim of the Catholic Church:' that 'the Church is invested with the power of infallibility,' he himself 'not determining anything about the essential seat of that power, because that is a question doctrinal, not historical and practical:' that 'the whole revealed dogma as taught by the apostles, as committed by the apostles to the Church, and as declared by the Church to man,' is to be believed: and that 'it is to the Pope in Ecumenical

[1] I am not aware that the present archbishop of Canterbury has ever been supposed to know much about theology, and I should be sorry to accuse him of it. It is not therefore so surprising that he should call the doctrine of the Immaculate Conception an 'idolatrous' doctrine. (*Eccl. Judgments, pref. p.* xviii.) Dr. Tait went out of his way to discover the most offensive term which he could find: utterly ignorant that with reference to any lower doctrine regarding the Blessed Virgin, 'idolatrous' can have no possible place as an epithet. Whatever else he may think of it, no protestant theologian would so speak.

Council that we look, as to the normal seat of infallibility.'[1]

The two letters in the Appendix were addressed in 1850 to a friend (now dead), who within a year after left the Established church. Where, when I look round for them, are many other friends of those old days?[2] Many have submitted to the authority of the Catholic Church. Of the rest, some, who were strong in their advocacy of low-church or evangelical opinions, are evangelical now: some, who then were louder and bolder than myself, have gradually subsided into the use of very moderate and qualified language, and speak hesitatingly, and have found out many a merit, unforeseen or unthought of, in the Anglican system.[3] Some, again, after each injurious blow struck at their position, take shelter in 'submission under protest,' and are content to fall back upon such a miserable subterfuge as, for example, this: 'the loss of modes of outward expression of belief only drives pious souls more *inward*, and the inward devotion shines the more through.' Some, once more, have given up the hope, or care to struggle, for a

[1] *Apologia pro Vita sua:* part vij.

[2] I am thankful that not one among them, like the writer of *the Church's Creed and the Crown's Creed*, has attempted to defame and injure, from within, the communion—be it what it may—to which he professes to belong.

[3] I well remember that a friend, still a bishop of the Established church, said to me in 1849, speaking of the Gorham case, 'If it be decided in Mr. Gorham's favour, good-bye to the Church of England.' And, about the same year, another, also a bishop now of an English see, told me that 'he knew of no Roman doctrine which he would have a difficulty in accepting.'

better future for the reformed church of England, and seem to have secretly yielded to the temptation to throw aside for a time, if they can, belief in any doctrine as being infallibly revealed.

These two Letters are once more reprinted, in the hope that some one or two will again give them a fair consideration. There are circumstances now happening which give them the same interest and value—such as it is—which they had twenty years ago. And, let me add that I am as ready as I was then to listen to any reply, and to weigh carefully every objection, which may be made against them.

Postscript.—I am constrained to speak of Mr. Ffoulkes's late pamphlet. The opportunity, whether fit or unfit, shall be taken advantage of, though for no other purpose than to express the indignation with which I read page after page of it. More than this: as objection followed objection, contempt was mingled with indignation; and wonder, that a man, believing himself to be a Catholic, could suppose any one of them, or all together, to be of sufficient weight to justify an attack so traitorous.

It is said that many thousand copies of Mr. Ffoulkes's pamphlet have been sold. Certainly, it is, for a season, the frequent subject of conversation. This is a good sign. It shows the wide-spread interest taken everywhere in questions which concern our duty towards the Catholic Church. People are alarmed:

they are conscious, in spite of themselves, that the claim of "the Reformation" upon their obedience is growing less and less. The Reformation is shaken now by every wind of controversy that blows. As to faith in its principles, every step which men take towards enquiry proves that it has none. They still believe in Christianity; but the choice—which they well know must be made at last—between infidelity and Rome, grows narrower, as it were visibly before their eyes, day by day. Looking with horror upon the risk of falling into scepticism,[1] they yet shrink

[1] Some people, however, do not stop to consider what is meant by *scepticism* and *infidelity*. The words run glibly enough over men's tongues, and they say, speaking of the want of distinct teaching in the reformed Church of England, 'We know well that logically it is a mere question of Rome, or infidelity:' as if there were nothing so very terrible in being forced to take the last alternative.

Whilst these sheets are being printed, I have seen some extracts (in the *John Bull* newspaper of March 20th) from a book, said to be on sale by the University publisher at Oxford, and to be found in the rooms of more than one Oxford tutor. It is called 'Essays on Robert Browning's Poems;' and the author writes that 'Jesus of Nazareth was greater than Abraham, simpler than Jacob, humbler and stronger than Moses, purer than David; his ideal was clearer than theirs, his failure more complete' . . . 'and oh! maddest and sweetest of dreams, he dreamed that he was the Son of God, and he set himself to make the world believe it.' Again: 'Through the spirit of prayer, Abraham, Jacob, Moses, still live, and when the religion of Jesus has passed away, men will remember the dream-life of the Hebrew carpenter, and the blessed consequences of following out the maddest, noblest, of ideals.'

The downward path to loss of all faith is steep and easy; and if men would but recollect that it leads at last to the acceptance of blasphemies such as those just quoted, they would long pause and hesitate upon the brink of it.

from Rome. Prejudices as old as their earliest years; lying stories about Popery, which they first heard as children; warnings, by friends, of unknown evils if they venture to leave 'the church of their baptism;' these influences, and such as these, unite to keep them, outwardly at least and for a time, where they are.

Pamphlets like that of Mr. Ffoulkes come to numberless persons as a god-send. Anything almost will serve as an excuse for not doing what they already feel more than half determined to do. The book is talked about in every society; and is praised equally by some who are sincerely protestant, by others who are hesitating like themselves, and by others, again, who either 'care for none of these things,' or who have no faith in any creed. It is, meanwhile, forgotten or ignored that all this praise is no evidence of the truth of Mr. Ffoulkes's assertions, or the strength of his reasoning. People who only want something to say, good or bad, against the Church, will take any argument for granted, and any (so-called) facts as undeniable. They will readily accept the author who suggests them, as one of the most acute and learned of his time.

The consequences, therefore, of such a publication as Mr. Ffoulkes's Letter are most mischievous. Many, —God alone can tell how many—who by His mercy were being brought gradually and very nearly into His Church, will be scandalized, and will draw back. Their opportunity may not return for years; perhaps may never. And why? On account of certain doubts and difficulties put forth in a little book,

which has weight and influence solely because the author is supposed to be—what (as it seems) he cannot be—a Catholic.

If he thinks he is so, Mr. Ffoulkes is bound, as a matter of honesty and truthfulness—qualities of which he parades himself an admirer—is bound, I repeat, to tell us :—

First—On what grounds he believes any Christian doctrine to be infallibly true?

Secondly—Whether he believes the doctrine contained in the addition 'filioque' to the Creed to be infallibly true? And why?

Thirdly—Whether he believes that episcopal ordination is necessary to a valid consecration of the blessed Eucharist ?

It would be an evasion to say that these are questions which do not affect the force or truth of the arguments and objections advanced in Mr. Ffoulkes's pamphlet, and that he need not answer them. On the contrary, they are of the very essence of the worth or worthlessness of all that he has written. His readers put a value on his book *because* it professes to be that of an honest man. Mr. Ffoulkes's honesty must be enquired into. In saying this, let me not be misunderstood as wishing to accuse Mr. Ffoulkes of conscious dishonesty. All I desire is, to show that the ground must be made perfectly clear before a Catholic can dispute with him, or a Protestant may venture to listen to his argument.[1]

[1] Mr. Ffoulkes has told his readers how much he is indebted to the English members of the Society of Jesus. It will be some little time before they will be cleared from the taint of his commendation.

There is a great show of learning in Mr. Ffoulkes's letter. Scores of people who never before heard of this or that council, or of the false decretals, are now asking, '*Have* you read Mr. Ffoulkes's pamphlet? and *can* you tell me all about those false decretals? Isn't it shocking?' If they had heard of those decretals before, they would have known, what Mr. Ffoulkes (unless I am mistaken) does not tell them, that objections against doctrines of the Catholic faith were long and long ago based upon the fact—and it is a fact—that the false decretals had been accepted and appealed to as of high authority by the Church, being forgeries. He is not the discoverer of this wonderful argument. There were men abroad in Luther's time, and in England in the days of Jewell and Whitgift, sharp enough to make the same use of what had been already proved to be the truth about them; proved, not first by Protestants, but by the greatest and most learned of Catholic historians. I am ready to allow that it was a clever weapon, controversially, and one which an avowed Protestant might fairly make the most of. But the assaulted doctrines of the Catholic Church, and her just authority, nevertheless stood unshaken. They rest, and Mr. Ffoulkes knows it, on other foundations, utterly independent of the genuineness of those ancient documents.

So, also, as to the introduction of 'filioque' into the creed. Many of Mr. Ffoulkes's readers (never having really searched into the history of it) will merely remember vaguely what he has written, as

'something somewhere against the Catholic Church.' English-churchmen will soon forget what the point really is, and that, if good at all, it tells equally against every great protestant community in the world. Mr. Ffoulkes makes much of the fact that early councils declared the then existing creed to be 'perfect,' without the addition 'and from the Son:' and he asks, as if it were a truism to deny it, 'Can *explicit* teaching which is *perfect*, admit of any further explanation?' I answer, undoubtedly it can. The apostles' Creed was *perfect*; and (to speak in popular terms) the first Creed of all, baptism 'in the name of the Father, and of the Son, and of the Holy Ghost,' was also *perfect*. Both contained every truth and every doctrine now taught, infallibly, by the Catholic church. But both admitted, nay, both required and demanded, as time went on and heresies sprung up, 'further explanation.'

Mr. Ffoulkes takes immense credit for venturing since he left the established church to enquire, and to discuss, and to judge for himself. Rather, for I ought to use his own strange language (as if he were a freemason), since 'he joined the Roman Church on [his own] grounds, and was accepted.' One would think that the Catholic Church cared so much to secure the great Mr. Ffoulkes, that it was a serious business between the two, a kind of treaty, and a compromise on both sides. However this may be, English converts (I suppose) as a rule generally do as they always did. If they have been, before, inclined to study and to enquire, they have done so afterwards,

just as much as Mr. Ffoulkes. At any rate, I can answer for myself. And not only so, but I have gone out of my way, more than once, to read anything which was spoken of as well written, or worth attention, against Rome. For example, Mr. Ffoulkes's 'Letter,' and of that I must frankly say, if we are told to read it as a strong argument, coming from such a quarter, against the necessity of communion with the One Catholic Church, that to my mind the effect of it is, simply, to confirm the Faith which it endeavours to weaken and destroy.

All this may be owing to stupidity on my part; and I must confess that it is difficult to comprehend what Mr. Ffoulkes's position really is. Therefore, he is bound to answer the three questions put to him above. Answered in one way, Catholics will not trouble themselves with his pamphlet any longer: answered in another, protestants and sceptics will no less quickly throw it aside as rubbish. Hence, also, I may be mistaken in supposing that Mr. Ffoulkes looks at the difference between the Establishment and the Catholic Church as one of degree of excellence; as a matter of choice between the two; as both being good enough, but one of them, perhaps, somewhat the better.

Such a supposition, if correct, would account for much in Mr. Ffoulkes's conduct; and no error can be named more pernicious in its effects. The duty of leaving a communion in which a man has hitherto lived ought never to rest upon comparisons. If, again, it be correct, why does not Mr. Ffoulkes return

without delay, openly, to his old communion? He may believe there as much or as little as he likes. Even if he should be obliged still to accept in words the 'filioque,' he will be at liberty to interpret it in two or three different ways; and it will be hard, indeed, if neither of them suits him.

One word more. It may seem to Mr. Ffoulkes a light matter to have so exercised his ingenuity, and shown his learning. But it is perilous. Some day he will have to answer, 'Why was all this done? for what especial purpose, occupying the place you do, and believed to be a Catholic?' If the defence then can be, 'I did it all honestly and from my heart, anxious only for the Truth, and to point the road to that Truth to others equally with myself,' it may suffice. If, on the contrary, there be the least conscious defect of candour and sincerity, if there be any meaner object to be gained, or any petty disappointment to be avenged, or little miserable anger to be indulged, I do not hesitate to say, that there are few sins in the second table of the Decalogue which I would not rather commit than have to look forward to my death-bed, the author of such a book as 'the Church's Creed or the Crown's Creed.'

A REVIEW

OF 'THE CIVIL POWER IN ITS RELATIONS TO THE CHURCH.

LOOKING BACK upon the history of the Established church during the last thirty or forty years—her history in our own days—nothing strikes us so much as the results of certain acts, which, when done, seemed to be of light importance, to be capable of exercising but little influence either the one way or the other, and which were acquiesced in by the ruling authorities in both church and state, as promising improvement without risk or danger. No example is more astonishing than the appointment of the now well-known Judicial Committee of the Privy Council as the final court of appeal in all ecclesiastical causes.

In this appointment, by which the old high court of delegates was extinguished, it is not difficult to recognize an almost visible sign of the hand of GOD, guiding and controlling men's deeds. Contemporaneously with the earliest symptoms of the revival of Catholic teaching in the Establishment, and of the practice (little indeed at first) of a more Catholic ritual, came also, silently and with muffled steps, its

greatest antagonist. Tractarianism, as a school, with books and pamphlets, and with settled plans and purposes, opened its attack upon the existing state of things, about the year 1832. In 1833, the power of finally deciding appeals, in all ecclesiastical causes, was transferred to the judicial committee of the privy council.

It seemed to be a prudent and a proper change. No question was involved in it, as had been exactly three centuries before, of the source from whence the jurisdiction of the court was derived. The old court equally with the new had no authority, nor did it claim any, beyond that given directly from the crown. Unlike the days when the famous statute of 'the submission of the clergy' was enacted, the established church was asked to make no submission to the state still more humble, (probably an impossible requirement, as submission scarcely can go lower,) nor to make any more promises 'in verbo sacerdotii.'

The practice, also, of the high court of delegates was clumsy, presented various anomalies, and on several accounts was objectionable. The spirit of the day was to simplify everything. All these points are explained in the report of the commissioners appointed in 1830 to enquire into the whole subject; to which a recommendation is attached to abolish the jurisdiction hitherto exercised by judges delegate, and to transfer the right of hearing appeals to the privy council.

But, more than this. It was not a time when either people or clergy had lately thought much about theo-

logical disputes, except so far as they were mixed up with the great civil question, just settled, of catholic emancipation: that ended, there seemed to be but the two great divisions, protestant and papist. The protestants, in the established church, scarcely less united upon most points of faith and common practice than their opponents. It was remembered that during the three hundred years of the existence of the delegates, there had been only three causes brought before them, wherein the subject-matter had been a charge of heresy or unsound doctrine: of which one alone was of much importance. There was no reason to anticipate that twice as many in number—and, of these, several concerning points of opinion and practice about which the whole religious mind of England could be agitated—would be laid before the new court, within a single generation. There was no sign yet of the little cloud, no bigger even than a man's hand, upon the horizon. So we can easily comprehend how it was that the old court of final appeal was without dispute swept away, and its jurisdiction transferred, with less check over it than before,[1] to the judicial committee.

[1] The old commission of Review was done away with, by the same statute which abolished the court of delegates.

This commission was given, but very rarely, by an extreme exercise of the authority of the king, as supreme head of the established church. 'So far was the royal supremacy from being understood to be limited to the mere correction of abuses in the ecclesiastical courts, that the crown claimed an original power of entertaining an appeal on its merits, apart from the act of parliament. It is well known that, notwithstanding the strong language used by this statute [25 Hen. viij.] which appears to make the king

Among the members of the royal commission mentioned above, appointed to enquire and to report upon the existing ecclesiastical courts, and the propriety of any alterations, were the archbishop of Canterbury (Dr. Howley) and bishops Blomfield, Van Mildert, Kaye, Carey, and Bethell. Not one of these was of the evangelical or low-church party; three of them were known to be, as estimated in 1830, high-church; and two, at least, had published books in support of doctrines, which were among the first taken up, and argued for, and insisted on by the Tractarian writers. The present bishop of Exeter, a few years later, on the introduction of the Church Discipline Act, in 1840—up to which time no case involving doctrine had occurred—speaking in the House of Lords, 'fully and heartily concurred in the measure.'

It is not difficult to understand why, amongst such men, there should be so great an unanimity, and seemingly an entire absence of all apprehension of any danger to come. It may be asserted without much fear of contradiction, that there was not one of them who at that time supposed that the formularies of the reformed Church of England could by any ingenuity be made to comprehend and accept, as equally true, op-

in chancery the final court of appeal, yet it was still held that the king was not precluded from granting a fresh commission to review the sentence.' *Ecclesiastical Judgments, p.* xlij. The reason was based upon a claim that the king was not restrained by the statutes 24 and 25 Hen. viij.; and that the pope, as supreme head, whose power is annexed to the crown by 26 Hen. viij. c. 1 and 1 Eliz. c. 1, had power to do it. *Williams, law of executors,* vol. 1, 437. *Coke,* 4 Inst. 341.

posite teachings upon many doctrines of the Christian Faith. Not one of them would then have consented to the now admitted privilege of the established Church, as amongst her chief glories, the power to embrace within her ample arms men of almost every opinion. There was not one among them who at that time suspected, and certainly not one who would have allowed, that the reformed formularies declared such doctrines as, for example, the inspiration of the scriptures, or the necessity of episcopal ordination, or regeneration in baptism, to be 'open questions.' On the other hand, not one of them was inclined, even in the slightest degree, to 'Romish errors.' Equally as upon the other points just mentioned, so, as regards these last also, no kind of doubt was in their mind, supposing that the thought suggested itself, as to the easy condemnation, by means of the new court, of any approach either to the teaching or the holding of them. In fact, I am perfectly confident as to one of the six bishops, that he had not, in 1840, a shadow of fear as to the conclusions which such a court must inevitably come to; bound as it would be to interpret the Common Prayer Book and the 39 Articles, as decisive upon either of the doctrines just mentioned, or upon more than one especial 'Romish error.' The *Via Media* of the established Church was not believed by him to be a 'way' spreading so wide on either hand as to touch all but the very extremest outside borders both of Catholic Truth and of almost every known heresy. Much rather did he look upon it as a 'way,' so clear and so

defined, that the Romanist and the Puritan could be equally thrust out of it, if they ventured to put a foot beyond its somewhat narrow limits.

For five or six years after 1832 the 'views' of the Tractarians looked well and promising. The condition into which the Establishment, through more than a century, had been brought by a long succession of clergy, as a body, uneducated in their profession; ignorant of theology, except from the writings of some few unlearned men of the extreme Calvinistic school; idle and careless in their living, and not seldom drunken and immoral;—furnished in itself a wide field, apt to receive a teaching so energetic, so awakening, and seemingly so true. The especial principle insisted upon at the commencement of the movement, as the very foundation of the claims of its leaders to be listened to, had the authority of the 'primitive ages' and of the 'old fathers' in its support, and was naturally not displeasing to the rulers of the Church. What could be more proper than the constant repetition of the cry, 'Let nothing be done without the bishop'?

It is possible that if the old court of delegates had not been abolished when it was, or if no change in its constitution and appointment had been suggested for another dozen years, until men's minds had been thoroughly aroused to the importance of the consequences sure to follow any change whatever, the Tractarian attempt to restore Catholic faith and Catholic practice in the establishment, might have proved more successful. It was undeniably a sincere

attempt, made in all honesty, by earnest men, who had themselves full confidence in the truth of their own teaching. Tractarianism might have grown into a settled and accepted system. It might have gone on, year after year, unchecked by the voice or by the hand of the Supreme Governor in all causes ecclesiastical; until it might have been able to prove, as it did not hesitate to assert, that the high-church interpretation of the formularies of the reformed Church of England is the only true one.

But however free from objection the alteration may have seemed to be in 1833, a trial of the new system was all that was required to destroy unanimity of approval. A court which has power to decide questions of doctrine, of which not one bishop or clergyman was *ex officio* a member, was (independent of all other objections) something very different from the court of delegates. In order to complete that old court, what was called a 'full commission,' including bishops, was always granted, where (as Lord Hardwicke said) 'the jurisdiction of bishops is in controversy, or any question is depending that concerns the canon and ecclesiastical law.' Thus, for example, we find that in 1700, Lucy *v.* Watson, and in 1713, Whiston's case, six bishops sat as judges with other delegates.

Naturally, therefore, so soon as the authority of this new court began to be felt, the high-church party began to reclaim against it. As it happened, the judicial committee decided the first case involving doctrine which was brought before them, according

to the plain teaching of the Catholic Church from the days of the apostles. Four laymen alone sat as judges. The point itself in dispute was of great importance, namely, the validity of lay-baptism. 'No one will deny that this was an intricate enquiry: one, which had been controverted during the last two hundred years by learned divines on both sides: one, which, no less than the doctrine of regeneration, was mixed up with and depended upon very subtle questions of theology.'[1] Though the decision in this case was not only according to the dry legal meaning of the Articles and rubrics of the Common Prayer Book, but also, as it chanced, in harmony with Catholic teaching, high-churchmen no less complained about it, bishops disputed it in their charges, and there was no lack of books and arguments against it. High-churchmen were not yet sufficiently well educated to see that, although in one sense it was a triumph for the low-churchmen and dissenters, it was, nevertheless, in exact accordance with all Christian tradition and practice. It seemed to be a disparagement and contradiction of the high views then taught regarding the sacrament of baptism. It seemed to clash, in some way, with the assertion of sacerdotal power and privileges.

A few years later, the famous 'Gorham case' produced far greater excitement, and dispute for and against the jurisdiction and authority of the judicial committee. But—except that I would refer the reader to the 'Second Letter' attached to this volume,

[1] See 'First Letter:' *p.* 102.

—there is no need to do more than to mention it. The last and recent case, Martin *v.* Mackonochie, has once more attracted unusual public attention. As involving doctrine, it is not easy to see how it can be compared with the earlier case. Be this as it may, the judicial committee has had again to run the gauntlet through innumerable objectors; against its jurisdiction, its office, its mode of proceeding, and even against, personally, the members of which it is composed.

I propose to review the argument and statements advanced in a book lately published upon this subject. It is a volume of much pretence in its appearance, bears evident marks of learned labour in its arrangement, and the author is one of the members of the lower house of Convocation. So that it has reasonable grounds to ask for the careful consideration of all who are interested in the matter of which it treats. I must add that the temper and tone of the author are throughout so moderate, that I regret to differ from him, and to be obliged to point out much which seems to be incorrect both in fact and reasoning. He will not however himself refuse a fair consideration of any criticism upon his book, if his object be, as it seems to be, not victory in argument whether right or wrong, but a knowledge of the Truth.

The title of the volume is, 'The Civil Power in its relations to the Church; considered with special reference to the court of final ecclesiastical appeal in England. With appendix containing all statutes in which the jurisdiction of that tribunal over spiritual

causes is founded; and also, all ecclesiastical judgments delivered by it since those published by the Lord Bishop of London in 1865. By James Wayland Joyce, M.A., one of the clergy-proctors for the diocese of Hereford.' To this is added a kind of half-title, by which it will be best, if required, to call the book; viz: 'The Sword and the Keys.'

The appendix is very useful: being a reprint of the various statutes since 24 Henry VIII. cap. 12, to 6 & 7 Victoria, cap. 38, by which appeals in ecclesiastical causes have been, from time to time, restrained or regulated. After these follow the ecclesiastical judgments of the Judicial Committee since January 1865: including those in the cases of Dr. Colenso and Mr. Mackonochie.

Although, apparently, an independent work, called for merely by the necessity of some plain statement and argument against the constitution of the present court of final appeal, 'The Sword and the Keys' is really, in the main, a controversial answer to another book,—or, rather, to the preface and introduction to a book,—referred to over and over again, and cited in the margin, as 'Eccl. Judgments.' It is not, at first, easy to see what Mr. Joyce is aiming at. It would have been unobjectionable, and undoubtedly more clear, if the full title of the 'Eccl. Judgments' had been given in the first chapter. On the contrary, we find it spoken of as 'a volume lately published under very high authority;'[1] twice, again, in the same words;[2] or, 'under very high auspices.'[3] As if it

[1] *p.* 12. [2] *pp.* 22, 26. [3] *p.* 29.

were a book to be mentioned only, as it were, with bated breath and with some kind of conventional reverence, either real or satirical. But we gradually learn a little more, as we get on. It is 'the recent volume, published under very high episcopal authority';[1] 'high ecclesiastical authority';[2] which particular recommendation is again raised afterwards to 'very high.'[3]

The full title of this mysterious volume is as follows: 'A collection of the judgments of the Judicial Committee of the Privy Council in ecclesiastical cases relating to doctrine and discipline: with a preface by the Lord Bishop of London, and an [*sic*] historical introduction. Edited (under the direction of the Lord Bishop of London) by the Hon. George Brodrick, barrister-at-law and fellow of Merton college, and the Rev. William H. Fremantle, chaplain to the Bishop of London, and late fellow of All Souls college. 1865.' 8vo.

The 'very high ecclesiastical authority' is, therefore, no less than that of Dr. Tait, the present 'archbishop of Canterbury and primate of all England.'

The clergy-proctor of the diocese of Hereford evidently thinks meanly of the principles laid down by his archbishop, with regard to the excellence, or the authority, or the institution of the existing court of final appeal. The first time he cites the introduction, he calls the suggestions which it makes 'ingenious' but 'odd.'[4] He asserts that 'the authors of the volume

[1] *p.* 35. [2] *p.* 52 [3] *pp.* 80, 106. [4] *p.* 12.

have not only flatly contradicted the patent evidence and the hard facts of history, but have invented highly imaginative and absolutely untenable suppositions in attempting' to establish their arguments.[1] In another place Mr. Joyce pointedly alludes to 'the acknowledged authorship of the preface and introduction,' meaning of course Dr. Tait, at the very moment when he condemns its argument as 'a startling method;' and declares it to be doubtful whether the archbishop does or does not approve of the nomination of Thomas Cromwell, though a layman, to the deanery of Wells: but the authors [of the Introduction] 'report, with much seeming gratification, that, but for physical impossibilities, this favoured layman would have been called upon to execute episcopal functions by ordaining fit persons to the order of the priesthood.' We are further assured that they not only 'hail' this fact with 'considerable satisfaction,' but that, although it could hardly have been expected to have 'readily commended itself to ecclesiastical regards, it seems, however, to have met with very favourable acceptance in such quarters.'[2]

Bearing in mind, therefore, this controversial character of Mr. Joyce's book, the plan which he has adopted in the discussion of his subject is one greatly to be approved. Without consenting to the correctness of his statements, it is enough to say that in the first chapter he explains the position of the established Church with regard to the court of final appeal, and how the court itself is now constituted. He then lays

[1] *p.* 55: compare *p.* 133. [2] *pp.* 67, 68.

before his reader historical details of the practice in such matters, from the Constitutions of Clarendon in the 12th century, down to the last alteration in 1833. Four or five following chapters are devoted to remarks upon the various changes. Then come three chapters, in which it is contended that the existing court contravenes great principles; religious, ecclesiastical, and political: that, as a court, it is incompetent; its principles of proceeding inadequate and unsatisfactory: that being a Civil Court, it 'involves a negation of all ecclesiastical precedents, and entails contradictions most glaring and complications quite inexplicable, because it affects spiritual jurisdiction, and undertakes to decide on theological issues.' A short explanation is added of the method of proceeding as to final appeals in other countries, showing that the English Establishment stands alone on its bad eminence; and Mr. Joyce naturally concludes with a chapter of suggestions of possible remedies for the present disorders.

Such, I believe, is a fair, though brief, analysis of the contents of 'The Sword and the Keys.' It is a volume well worth a careful reading;—not because of the value of the arguments upon which its positions are sustained, nor because of the exactness of its statements with regard to facts and history; but, because of the remarkable evidence which it furnishes of the wide-spread dissatisfaction felt amongst the best educated of the established clergy; and, at the same time, their apparent incapability of seeing the true difficulties which surround them.

The high-church and (to use the new term) ritualist party in the reformed Church of England not merely hate but despise the authority of the judicial committee of the privy council. They resist its decisions; they repudiate their logical consequences; they object and protest in every way; that is, up to a certain point. They forget, or refuse to consider, that the arguments and objections which they bring against the judicial committee would tell with equal force against every modification and alteration of the court which they have hitherto suggested.

The real difficulties, so far as any causes involving doctrine are concerned, lie, first, in the source from whence the jurisdiction and authority of the court are derived, and secondly, in the character of the documents, being laws and statutes of the realm, upon which the court has to put the final and true interpretation. In 1534, all appeals from the Archbishop's court to any higher ecclesiastical authority were absolutely forbidden; and the Crown arrogated to itself, for the first time in the history of the Church of England, the power to decide them; whether they were causes involving doctrine or not. An account of the different changes down to the present time will be found in the 'First Letter,' reprinted below, and need not be repeated here.

It is not possible to bring any objection against the judicial committee, against its jurisdiction, or the source of its authority, or the extent of its power,—whether over causes civil rather than spiritual (such as testamentary, and rights of tithes), or over causes

involving doctrine,—which would not be quite as strong against the court of delegates. But the reformed Church of England quietly consented to and approved that court, century after century. The old court equally occupied the place and dignity which the earlier practice of a thousand years gave to spiritual persons, deriving their authority from the only true source of ecclesiastical jurisdiction over questions of faith and doctrine. The old court sprang equally from the same origin, namely, 'the king's majesty, justly and rightfully the supreme head of the Church of England.' The old court depended equally and entirely upon the same power for its continuance, whose breath could alter or demolish it, the power of the crown and parliament.

Mr. Joyce devotes a whole chapter to an attempt to prove, not only that 'the upper houses of Convocations were courts of final resort' in ecclesiastical causes, 'touching the king' under the Act 24 Hen. viij., but that they continued to be so until modern times, and positively have acted as such on more than one occasion. Writing nearly twenty years ago, I touched upon this point in my 'First Letter;'[1] but it never occurred to me, even for an instant, to dream about any possible example of the exercise of such a power. On the other hand, so far as, not being a lawyer, I then ventured to express an opinion about it, it was to the effect that the authority given to the upper houses, in certain appeals, in 'causes testamentary, of matrimony and divorces, rights of tithes, oblations and

[1] See *p.* 67.

obventions,' was perhaps taken away in the year following by the Act 25 Henry viij., and by the statutes of Will. iv. Not only so, but also that 'it does not appear that at any time whatsoever, or under any statutes, or canons, the upper house of convocation was supposed to be a final court in causes involving doctrine.' A month or two after the publication of the 'First Letter,' the question was fully argued in the three courts of Queen's Bench,[1] Common Pleas, and Exchequer. All the common law courts unanimously decided that the upper houses are not, in their several provinces, final appeal courts in matters touching the king: and that there is no trace in the history of the last three hundred years of any such appeal ever having been brought: although many had been carried into the high court of delegates.[2]

[1] On a rule to show cause why a prohibition should not issue to the Dean of Arches and the archbishop of Canterbury, to prevent them from instituting Mr. Gorham.

'This motion was founded on an affidavit by the bishop of Exeter, averring that, since the date of the order of her Majesty in Council, March 9, 1850, he had been advised, for the first time, that her Majesty in Council had no power to entertain the appeal.' *Eccl. Judgments, p.* 107.

[2] The court of Exchequer said; 'The courts of Queen's Bench and Common Pleas came to the conclusion that the appeal to the upper house of convocation was altogether abolished by the effect of the second statute. They both thought that when, by the express provision of § 4 in 25 Hen. viij. c. 19 a new appeal was given to all parties grieved, without any exception, and a new tribunal was constituted for that purpose, and no further appeal was to be had or made from the same; this was, in effect, a repeal of the exceptional right of appeal given by 24 Hen. viij., in the particular case of matters touching the crown.' The court went on to mention at least five cases in which the king was concerned, since 1534, and

The cases which Mr. Joyce cites to prove his assertion utterly fail. They are the three cases of the divorces of the queens Catharine of Aragon, Anne Boleyn, and Anne of Cleves. For it is quite certain that all three were referred to, and were considered, and were decided — not by the upper house of the convocation of either province, but— by the convocations sitting as synods.

The only one of the three suggested cases, which would, in any degree, appear to admit of some likelihood of truth, is that of queen Catharine. The Act of 24 Henry viij. probably was passed with reference to that question, at the time all absorbing: and to prevent the queen from carrying her cause—a cause of matrimony, touching the king—to the court of Rome. But the matter did not come before the convocation in the way of appeal. There had been, as yet, no sentence to appeal from. The validity of the marriage was, therefore, simply debated and voted upon, like any other subject of the day which was brought before the members of both houses. There is not a shadow of evidence to induce us to believe that their deliberations, as to the divorce, were supposed to be conducted in any way different from the usual and long established practice of the English convocations.

We find a very plain and sufficient proof of this in the language employed by Cranmer, when, having opened his court at Dunstable, he himself gave sen-

appeal made without objection to the delegates: and ended by declaring the construction put upon the statute by the other courts to be 'reasonable, and supported by all the practice that is known.'

tence in the cause. He speaks of it as having been brought judicially before him, in virtue of his office: and then proceeds to explain that his judgment is founded on information of witnesses, and after the careful consideration of 'not only the censures and decrees of the most famous universities of almost the whole Christian world, but likewise the opinions and determinations both of the most eminent divines and civilians, as also the resolutions and conclusions of the clergy of both provinces of England in convocation assembled.'[1] Not a word about a decision of a final court of appeal, nor of the upper house of convocation even pretending to exercise any such power.[2]

[1] So, in a letter to archdeacon Hawkins (Jenkyns, 1, 27) Cranmer wrote; 'The queen being cited to appear, utterly refused, inasmuch as her cause was before the Pope, and she would have no other judge, and therefore would not have *me for her judge.*' No mention of any final decision on appeal by the upper house of convocation.

I may add, it seems that, some time before, the two houses had discussed and settled the two questions put to them, relating to the divorce; and their records being searched by the king's command at this later date, April 5th, the entry of their determination was found. See *Blunt: Hist. Reformation, p.* 183.

[2] Mr. Joyce seems to have some doubt as to whether the act 24 Hen. viij. 12, which probably received the royal assent on the last day of the session, viz. April 7th, could have had any authority on April 2nd, when the Canterbury convocation voted on the questions bearing upon the validity of queen Catharine's marriage. And he seems to think that the act took effect from the date of the last day of the session.

This would be a common-sense view of the difficulty: but so far as Mr. Joyce can derive any support to his argument from the fact, he should know that acts of parliament, in those days, took effect from the first day, and not the last, of every session. This, upon the theory that each session, though it lasted for months, was a single day. If one may venture so to call it, this extraordinary

But Mr. Joyce himself—as if condemned out of his own mouth—agrees to all this. He tells us that 'the English clergy' decided the matter; that the formal instruments were drawn in the Canterbury and York convocations; that they were 'synodical trials;' that the decisions themselves were 'convocational;' and the jurisdiction exercised was also 'convocational;' that 'in theory, the upper and lower houses of convocation are ecclesiastically one synod, and this is specially the case in discharging judicial functions.' All this may be quite correct; but it only goes to prove that there cannot be produced a single example of the upper house of convocation having ever sat as a court of final appeal in any ecclesiastical cause whatever, under the provisions and by the authority of the act 24 Hen. viij. cap. 12. That famous statute gave no power or jurisdiction to the convocations. It simply created, for certain causes only and subject to a certain contingency, the upper house, alone, into a court of final appeal. Whether this provision was or was not repealed by the statute of the following year, 25 Hen. viij. cap. 19, is now a point of not the slightest importance. The upper house of convocation never sat, as a court, upon any one single case; and for all practical purposes of that kind might just as well never have existed.

We must, therefore, conclude without hesitation

rule—a rule mischievous moreover in its retrospective power—was put an end to by the 33rd Geo. iij. cap. 13. All acts of parliament now take effect from the day on which the royal assent is given, unless some special day or time is mentioned in the act.

that, however highly Mr. Joyce may value his own opinion above that of his archbishop, he is scarcely justified in condemning the judges of all the three common law courts, as having treated the 'statutable provisions of the act 24 Hen. viij. cap. 12, in a most unfilial spirit of legal rebellion, at the expense of law and facts, and in defiance of the highest authority,' p. 55.[1] Language so unmeasured, with reference to repeated decisions of our courts of law, is to be excused (I think) only when the writer is not merely certain that his own arguments are irrefragable, but has reasonable ground of suspicion that unworthy and corrupt motives have had influence over the minds of English judges.

The importance of a right understanding of this claim for the jurisdiction of the upper house of convocation is not underrated by the author of 'The Sword and the Keys.' He apologizes for the length of his argument about it, because of 'the *vital importance* to the church that the act which gave the power of appeal in 1532, should be maintained in its integrity.' The act itself was 'a noble monument to

[1] So, also, at *p.* 27, we are told that 'the decision of the Queen's Bench was illustrated by fictions and based on grounds which flatly contradicted the acknowledged facts of history.' Certainly, Lord Campbell in giving judgment made more than one absurd error in dates: but the decision itself was right, and upheld afterwards by the two other common law courts.

Again, at *p.* 49 Mr. Joyce says that 'the learned barons of the court of exchequer were (1) not rightly informed on the subject of royal divorces, (2) unacquainted with the ancient law of the land, and (3) had not studied the constitutions of Clarendon in their integrity.'

church authority, and the statutable sanction of the restoration of the *Jus Cyprium* to the national church.'[1] We ask, if the statute lasted but for one year (which is probable), and if the upper house of convocation never exercised the power given under that statute (which is certain), and if every pretence to be a court of appeal has been taken away for nearly forty years, what are we to believe as to the 'vital importance'?

Mr. Joyce states very plainly and honestly, that whilst 'no man would feel aggrieved that testamentary, or tithe, or matrimonial, or patronage suits of secular contention should be concluded by laymen, nevertheless many men feel the extreme impropriety of remitting doctrinal questions in final resort to such authorities.' Again; 'The real question which moves men's minds is, whether doctrine should be, so far as the power of a court goes, defined by lay authority.'[2] It is not, however, quite so clear whether he would have been satisfied with the continuance of the old high court of delegates. We are told that in 1534 it was 'a strange novelty, that decisions in the archbishops' courts should be subject to the correction of commissioners appointed by the crown.'[3] But, novelty though it was, it seems that it might have been not altogether an improper arrangement, if 'the principles of its original constitution had not been forgotten.'[4]

Supposing this to be Mr. Joyce's meaning, I must own that I am again unable to agree with him that

[1] *p.* 54.
[2] *pp.* 64, 65.
[3] *p.* 15
[4] *p.* 69.

those 'principles' are to be discovered in the *Reformatio Legum.* That well-known book does not give us the proposed revision of the ecclesiastical law, as set forth by the framers of the statute, called, the Submission of the Clergy, but as recommended by thirty-two persons appointed seventeen years afterwards, in the reign of Edward VI. It is not, under either view, a matter of importance or worth discussion; for the *Reformatio Legum* did not receive parliamentary sanction. It remained therefore what it was from the first; a book of suggestions, recommended (not near the year 1534, but) at a time when the reformed church of England was under the absolute control of men like Cranmer and Peter Martyr. It is, moreover, exceedingly doubtful whether the author of 'The Sword and the Keys' would, upon further enquiry, like to accept the *Reformatio Legum* as a declaration of the 'principles' of the English reformation.

However this may be, Mr. Joyce presses very strongly another objection against the existing court of appeal. He contends that the appointment of the judicial committee, in place of the court of delegates, was 'an accident and mistake;' a 'legislative blunder;' a 'misadventure;' 'entailing the most disastrous consequences.'[1] The archbishop of Canterbury (as quoted in the same chapter) is of a totally opposite opinion. He told the House of Lords 'that the court was framed with a very distinct reference to the subject of ecclesiastical appeals; and that it assumed

[1] Chapter 6.

its present form in consequence of the recommendation of a commission, of which archbishop Howley, bishop Blomfield, and the late bishop of Lincoln and other prelates formed a part.' Again, in his charge (1866) as bishop of London: 'I maintain now, as I have done elsewhere, that the particular arrangement by which these principles are now upheld in England, was most deliberately adopted, after careful evidence, on the recommendation of a commission, in which the two archbishops and other bishops served.'

I must leave Mr. Joyce to settle this curious difficulty with his archbishop, as best he may. One thing is to be remembered: that it was long after the judicial committee had exercised its new powers as a court of final appeal, in any cause involving doctrine, and after a decision from which they were themselves averse, when Dr. Blomfield and others took the line of objecting that its origin was to be traced to 'blundering' and 'carelessness.' Such 'mistakes' and 'accidents,' when they really happen, are not very hard to mend, if people are thoroughly sincere, straightforward, and determined.[1]

[1] Since the publication of his book, Mr. Joyce has not been idle as a clergy-proctor in the lower house of convocation. He has given a copy of his book to the library, for the general edification of the members (including, it is presumed, the upper house also): and on Feb. 23rd, the first sitting, he presented the following *gravamen*: 'That the present court of final appeal in ecclesiastical causes in matters of faith and doctrine, as constituted in recent times, is a grievance; inasmuch as that tribunal was created by an unhappy legislative accident, is in its constitution antagonistic to the fundamental principles of ecclesiastical judicature, and moreover involves a solecism in national jurisprudence.' The presentation of this

Although Mr. Joyce is so eager to prove that the jurisdiction of the judicial committee as a final court is based upon an accident and want of care, there is no doubt whatever about the acquiescence by archbishops and bishops in the statute 2 and 3 Will. IV. 92. Nor was it merely an acquiescence: they gave it their expressed 'recommendation.' The reader will recollect that by that act all ecclesiastical causes were referred to the whole Privy Council. A return to this arrangement, although it might heal 'the blunder,' would nevertheless not now please or satisfy the high-church party. Mr. Joyce tells us that the proceedings of the privy council are concealed in 'a hazy mystery;' that its determinations pretend to be one thing, being really something else; that the council, as a body, is unfit to discharge such functions; that in the execution of so great an authority it would have been an unmistakable revival of the odious tyranny of the Star-chamber; and so on. This may be all very true; and I have not the slightest disposition to dispute it. But we must observe that Mr. Joyce and his friends are very hard to please. They are like the man who was being flogged, and kept on constantly complaining that he was never struck fairly. The blow was always too high or too low, too much on one side or on the other. And if

gravamen does not seem to have met with much success, although Mr. Joyce managed to get some other signatures to it, besides his own. Considering the usual way in which the English convocation treats any subject of real importance, it is wonderful how the two houses when they meet can refrain from laughing in each other's faces.

the Act of 1832 was so exceedingly objectionable, it was scarcely worth Mr. Joyce's trouble to try and prove that the Act of the succeeding year, which amended it, was 'an accident.' On the contrary, we have all the more reason to accept the version of that amendment insisted on by the archbishop of Canterbury.

The leaders of the high-church or ritualist party would find it to be extremely difficult, if not impossible, to organize any court of final appeal which would be satisfactory to them. Mr. Joyce is not correct in stating that the function of the judicial committee is 'to try theological issues, and to give judgment in cases of purely spiritual cognizance.'[1] Very far from it. So, in another place he says that 'this court, in effect, assumes authority over "the teaching of the Word," in the very widest and highest sense:'[2] and then quoting from Lord Campbell's speech (which I shall cite presently) he asserts that this can only be 'colourably' denied: and that 'under the guise of interpretation the work of construction may from time to time be carried on.'

There is one paragraph which it is well to quote entire, as an example of the erroneous method of Mr. Joyce's reasoning. (The distinction which seems to be drawn here between 'a fundamental principle of the Christian Church,' and 'a great religious principle' is not obvious; but scarcely worth delaying upon, as it does not much concern us.)

'Now this fundamental principle of the Christian

[1] *p.* 153. [2] *p.* 89.

Church, ordained by our Lord Himself, and illustrated by the early practice of primitive times—that it is "the inherent and indefeasible right of the Church to teach and maintain the truth by means of her spiritual pastors and rulers," may be distinctly affirmed to be a great religious principle. And this great religious principle is directly contravened by the action of this court of final appeal: which has, as a fact, adjudged in defiance of the authority of English bishops and archbishops, that certain doctrines by them disallowed may lawfully be preached in the church of England.'

It is here taken for granted, that if English bishops disallow and condemn a particular doctrine, therefore it is rightly and lawfully condemned. There can be no greater mistake. The true test is not the opinion of any bishop or archbishop, but the language used and the limits laid down in the formularies of the national church.

It has been decided again and again that the appellate jurisdiction of the supreme court is confined to the right interpretation, in a strictly legal sense, of certain documents agreed to, and put forth from time to time, by the English convocations since 1548. This is explained more than once in the 'First Letter;' for instance, that the office of the judicial committee is to interpret existing documents, not to declare the truth or falsehood of any doctrine. Again; that the questions brought before it, are not of new canons and formularies, but of the right construction of old ones.[1] This position, a few weeks after the publica-

[1] See Appendix, *pp.* 97, 98.

tion of that Letter in 1850, was established by the judgment upon the Gorham case. 'This court,' said Lord Langdale, 'has no jurisdiction or authority to settle matters of faith, or to determine what ought in any particular to be the doctrine of the church of England. Its duty extends only to the consideration of that which is by law established to be the doctrine of the church of England, upon the true and legal construction of her articles and formularies.' So, again, Lord Campbell, speaking in the House of Lords, 'The judicial committee is merely a court of construction, its duty is to explain the meaning of legal documents.'[1] Will Mr. Joyce or any other member of either house of convocation tell us that he would be ready to submit such a case as the Gorham case, or Mr. Mackonochie's, to a tribunal of six or eight high-church bishops and clergymen, and as many low-church? will he pretend that, even if he were, it would be (saying nothing of probability) possible for them to come to any other conclusion than was arrived at by the judicial committee in either case?

The fault is not in the constitution of the court itself, nor—so far—in the source from whence its jurisdiction flows: but (supposing it for a moment to be a fault, and not according to the true spirit of the established Church) it is owing to the character of the formularies, on which it is bound to rest its decisions. These are purely and really acts of Parliament, as much as a turnpike road act, or the last railway bill, for all purposes which can come under the considera-

[1] Hansard, 3. S. *vol.* cxj. *p.* 643. Quoted by Mr. Joyce, *p.* 221.

tion of the judicial committee. Lawyers, educated and practised for years in the intricacies and subtleties of English law, are the very best judges which can be named to interpret these, no less than other statutes of the realm. The judicial committee ranks amongst its members lawyers of the highest eminence and long experience. Why should Mr. Joyce or his party throw on them the blame which in reality, if due at all, is due to the 'stammering lips' of the formularies themselves? Is there any one great Christian doctrine, any one chief article of the Faith, which those formularies, in some part or other of them, do not allow to be held in (it may be) half a dozen different and perhaps contrarient senses? If there be such a doctrine, what is it?

If all this were not undeniably true, there would be some force in the proposal which Mr. Joyce makes, of a so-called 'simple and effectual remedy.' Namely, this: that the judicial committee, 'as being a secular court, should, when a spiritual question is raised before it, refer that question to spiritual authority; and that the answer of such spiritual authority should be received as evidence of what the law of the church of England is on the subject.'[1] But I assert that the answer in every case of doctrine, as disputed by the two great parties, high-church and low-church, into which the Establishment is divided, would be that 'the law of the church of England,' as it is laid down in her own authoritative documents, is that her ministers may hold and teach opposite opinions.

[1] *p.* 211.

That she has herself explained nothing positive about it. That she declares neither the one statement of it nor the other to be certainly true.

Mr. Joyce's suggested arrangement would, therefore, in no way meet the difficulty or mend the matter. There would be no profit in any reference—be the case ever so 'grave'—to 'three or four bishops,' or 'to some body of learned divines, in order to be supplied with evidence of the doctrine of the church of England;' or, as he puts it afterwards, 'evidence of the faith of the church of England.'[1]

The reformed church of England has no 'faith' and has no 'doctrine.'

Hence, again, there is an entire misapprehension of the real difficulty in the whole matter, and of the solemn consequences which are included in that difficulty, where Mr. Joyce argues thus. 'Suppose a clergyman to have been admonished in respect of his doctrinal teaching by his diocesan, and suppose this admonition to have been affirmed on appeal by his metropolitan, the clergyman may then appeal from these sentences of admonition to the judicial committee of the privy council. Thus, on a question purely spiritual, involving an issue purely theological, an appeal would be carried from authorities purely spiritual to a tribunal which by the general law is purely secular.'[2] But there must be an appeal somewhere; and although the lower courts of bishop and metropolitan might both take the same view of the cause before them, yet a mixed final court com-

[1] *pp.* 214. 218. [2] *p.* 165.

posed of several bishops and divines would be bound, no less than is the judicial committee, by the plain meaning and direction of the formularies. If these—the Common Prayer Book and the 39 Articles—cannot be shown to have such plain meaning, if they do not distinctly condemn and disallow the teaching of any particular doctrine, or the denial of some clause of the Catholic creeds, the 'sentences of admonition' must be reversed, and the appeal decided in favour of the minister admonished.

I desire to represent fairly the meaning, so far as I comprehend it, of the author of 'The Sword and the Keys.' Unless I am mistaken, there is no discussion in his book upon the question of the consent and acceptance by the established church of the old arrangements as to the final court of appeal in ecclesiastical causes, which lasted for three hundred years. I do not remember, except in one page, even an allusion to this matter. Yet it is of the most serious importance, and it is not easy to see how so long a treatise could have been written about 'the civil power in its relations to the Church,' without some attempt to prove either that the reformed church of England is committed absolutely, and with one voice, to the royal supremacy in matters of doctrine, or that she is not. Mr. Joyce may say, that it is not a question which he thought it worth his while to speak of. I can only reply, that few probably will agree with him. There was no obligation that he should write his book at all: and I say this, not meaning that any other high-church member of the lower

house of convocation would have done it better, or so well. But, having sat down to write, he should not have passed over the question, gravest among the grave, of the acquiescence of the established church in the claims of the royal supremacy.

The one place excepted, referred to just above, is in his 13th chapter, where a sort of excuse is offered, for not discussing it. We are told that it would be 'quite idle to introduce into [his book] any questions connected with Royal Supremacy and Prerogative:' and that 'it would be trifling with serious matters' to do so. The reason added is amazing: because, namely, 'the argument does not now lie between the Church and the crown, but between the Church and the Imperial Legislature:' and that 'this court, created by the statute of 1833, is the creation of an act of parliament.'

But Mr. Joyce does not go on to explain how it is that the queen is not a member of the 'Imperial Legislature;' or what the distinction is between the statute of 25 Hen. viij. cap. 19, and 3 and 4 Will. iv. cap. 41, sufficient to enable any man to affirm that the high court of delegates was not 'the creation of an act of parliament.'

The reader, however, will find this question considered in the 'First Letter.'[1] It is necessary merely to add here, that the statute which constitutes the judicial committee as the court of final appeal, still, in words at least and as if to maintain the royal supremacy untouched, leaves the decision and the sentence to the Queen in Council. Or, to adopt the language

[1] *pp.* 91, *et seqq.*

of Lord Cranworth, in giving judgment in the case of Poole *v.* the bishop of London, 'the power which in 1533 the act of the Submission of the Clergy conferred on the crown, was by the statutes of the last reign, transferred to the king in council, and is now exercised *upon the advice* of the judicial committee.'[1] This had been carefully explained also, in like manner, by Lord Langdale, ten years before; in the case just cited above: that 'this court is constituted for the purpose of *advising* her Majesty in matters which come within its competency.'[2]

But supposing, for a moment, that the high-church party and Mr. Joyce could be so far successful as to obtain, in causes involving doctrine, a court of final appeal composed of archbishops and bishops and divines:—have we any reason to believe that they would submit readily to its decisions? This is more than doubtful. Take two cases which are extremely significant as to what the result would be. The one, Ditcher *v.* Denison. This case went before a court, which Mr. Joyce can have no objection to: the archbishop of Canterbury himself with assessors; an Oxford professor of divinity, and a dean of a cathedral. The archbishop condemned archdeacon Denison's doctrine with regard to the Real Presence, as not being a true construction of the 28th and 29th articles of religion, but directly contrary and repugnant to them. The other case is that of Poole *v.* the bishop of London: in which the bishop first, and the archbishop of Canterbury afterwards, upon appeal, con-

[1] Eccl. Judgments, *p.* 196. [2] *Ibid. p.* 102.

demned in unqualified terms the practice and teaching of Mr. Poole with regard to private confession and absolution, as being 'most dangerous, and not in accordance with the rubric or doctrine of the church of England.'

Mr. Poole, I may add, appealed to the judicial committee; and that court would not enquire into the doctrine involved. They determined, only, that there was no right of appeal to them, Mr. Poole being a curate, and subject to the decision of the archbishop. When, however, the doctrine and practice then condemned by both bishop and archbishop shall come before the judicial committee, (and come some day it will,) to be decided, not by men scarcely free from prejudice and warped by early theological bias, but by lawyers, calmly enquiring into the true meaning of statutes and formularies, the decision—I foretell it as a certainty—will be altogether the contrary.

Whether the spirit which, in the 16th century controlled and directed the fortunes of the established church of England was good or evil, pious or impious, there can be no hesitation in our allowing cleverness as an attribute. The presiding influence, under which the reformed formularies were at last left, nearly as we now have them, exercised its powers wisely. That the system so settled should last for ever was not to be expected, nor was any hope or promise given that it should. The very cleverness itself of a compromise which was to include men of every opinion, and the cunning evasion of distinct dogmatic statements upon great Christian truths, would some day or other be certain to

prove the worst enemy of the establishment, and the most fatal weapon for her own destruction. It could only be a question of time—though time loitered for three hundred years—how long men might be kept back, sometimes under one pressure, sometimes under another, from bringing their theological disputes fairly to the legal tests of who might be right or wrong.

Mr. Joyce and his friends had better be contented to 'let well alone.' So long as the judicial committee retains its authority and jurisdiction, so long they will be allowed to hold and teach very much what they like. The time has gone by, for all pretence to teach any doctrine as *the* doctrine of the reformed Church of England. They must take the rough with the smooth: and, in return for the liberty which they claim because of Catholic language in the Common Prayer Book, they must not grudge the same license of tongue to the low-church party, who appeal with like confidence to the puritanism and Calvinism of the 39 articles.

I shall throw together, with the briefest possible remarks, a few misstatements in the volume which we have had under our consideration. If Mr. Joyce be indeed 'indisputably the most learned man in England in the subject of which he treats,' (as one of his high-church reviewers has kindly said of him,) it will be well that some one else of his party should begin to learn, at least, the alphabet of canon and statute law.

Mr. Joyce says 'that the terms of [the last sentence of] the 8th constitution of Clarendon are perfectly

plain:'[1] and he interprets them in a particular way. Blackstone, in his third book, gives, without any doubt about it, a contrary interpretation.

Again: 'The jurisdiction of the convocations in causes touching the king came under discussion in the common law courts in the year 1850.'[2] Nothing of the kind. The question before them was as to the jurisdiction of the upper house, under the act 24 Hen. viij.

Again: the divorces of Anne Boleyn and of Anne of Cleves, we are told, were declared null and void 'by convocational authority; the jurisdiction thus exercised being clearly founded on the 9th section of the great statute of appeals of 1533.'[3] The fact is, that even the little which might be suggested as to the divorce of Catharine of Aragon, is utterly worthless as to the other queens: and has no shadow of foundation whatever.

Again: 'In place of no appeals to convocation having taken place since the passing of the statutes [1532, 1533], the most imposing instances of such proceedings have occurred.'[4] The instances are the cases of the three queens, which can be called 'most imposing' only when used as the author of 'The

[1] *p.* 12. [2] *p.* 27. [3] *p.* 39.

[4] *p.* 50. 'As examples may be cited, the nullification of Catharine of Aragon's marriage, which was *wholly* the act of the convocations [!]; the divorce of Anne Boleyn, which was sanctioned by the same authority; and the nullification of Anne of Cleves' marriage, which was entirely decided by the same tribunal.' *p.* 133.

In what sense does Mr. Joyce use the word 'examples' in this extract? whether the kind be good or bad, has he any more to show us?

'Sword and the Keys' would use them. I think they will hardly impose on any body who gives himself the trouble to enquire.

Again: referring to the act 25 Hen. viij., which created the court of delegates, we read; 'As there was no specification in this statute restricting the choice of delegates, it was rendered possible for the crown to appoint laymen to the office.'[1] The word ought to be 'ecclesiastics:' they, and not laymen, were the exception in the commissions.

Once more: near the end of the book we find 'the following *facts:*' that 'there are by statute law at this moment in England four courts of final appeal in ecclesiastical causes, viz.: (i.) The upper house of the convocation of Canterbury. (ij.) The upper house of the convocation of York.[2] (iij.) The judicial committee of privy council. (iv.) The judicial committee of privy council, with the addition

[1] *p.* 58.

[2] On the 24th of February last, Mr. Joyce, speaking in the convocation, explained to the lower house—not one member knowing enough about it to contradict him—that 'at present, in all causes touching the king, the final appeal is to the upper house of convocation.' Much more interest would attach to the report of their debates upon some subjects, if we felt that among the deans and archdeacons and clergy-proctors, &c., there were some few who understood what they talked about, or what was talked to them. The present disorders and the future fate of the national Church are subjects which no Englishman,—let his creed be what it may,—thinks of without anxiety. The usual mode in which the convocations treat the difficulties and dangers against which the reformed church of England is, as an establishment, now struggling, makes us more and more certain of what the end must be: and that, soon.

of the archbishops of Canterbury and York, and the bishop of London, or one of them.' And that 'according to the particular circumstances of each case, appeal may be statutably had to one or other of the foregoing tribunals.' And that 'there is no provision whatsoever against conflicting decisions, or for reconciling such, should they occur.'[1] Standing, as Mr. Joyce says he does, in 'the actual presence of these facts,' his amazement and horror are very natural. But he frightens himself and his brother clergy-proctors very unnecessarily. They may rest comfortably in the assurance that there is not the most remote chance of conflicting decisions. There is but one court of final appeal: the distinction drawn between numbers iij. and iv. is no distinction. They are the same court; number iv. having additional members for the purposes of the act 3 and 4 Vict. c. 86. And numbers i. and ij., however 'vital the importance to the Church' of their continuance may be, were thoroughly disposed of long ago.

It remains only to refer the reader to the two 'Letters' reprinted below. He will find in them the questions touched upon in this Review of 'The Sword and the Keys,' discussed at greater length. If the arguments there insisted on can be answered now, let us hear the answer. I can only say, there was no answer given to them twenty years ago. More than this: events are crowded now-a-days into half a lifetime, which our forefathers would have thought to

[1] *p.* 236.

come in quick succession spread over a hundred years; and, since the first publication of those Letters, the force of their argument has been greatly strengthened, and much that was then anticipated is being proved to be true.

APPENDIX.

TWO LETTERS ON THE PRESENT POSITION OF THE HIGH-CHURCH PARTY IN THE ESTABLISHED CHURCH.

ORIGINALLY PUBLISHED IN 1850.

THE FIRST LETTER.

THE ROYAL SUPREMACY, AND THE AUTHORITY OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

February 9th, 1850.

My dear Friend,

I am about to write to you, in one or more letters, on a subject most important, whether we consider its intimate relation to yourself (as a clergyman), or its bearing upon the practice, and duties, and future life of those with whom you are connected. I mean, the present position of (what is commonly termed) the High-church [or Ritualist] party in the Church of England.

From the date of this you will observe, that I am writing before the decision of the Judicial Committee of the Privy Council has been pronounced in the case of Mr. Gorham against the bishop of Exeter. And so far as this first letter is concerned, I shall not care to suppose what the decision will be: whether in favour of Mr. Gorham; or, in favour of the bishop: that is, as distinctly, as firmly, and as unequivocally as was the judgment in the Court below, by Sir Herbert Jenner Fust.

These letters are intended to be as short as may be: both because many will read pamphlets who will not read a book, and because (it is hoped) a few pages will be quite sufficient for my purpose: which is not so much to argue, as to state some difficulties and leave them for your consideration.

* * * * *

The hearts of thousands are being moved and stirred in a very deep and mysterious way; not by any one or two great occurrences, so much as by the distant sounds of an unwonted voice, speaking with a power which they almost fear to recognise, and leading them, amidst the gloom of present troubles and anxiety, to the hope of a calmer and a better future. They must be prepared to meet with reproach, and misunderstanding, and contempt. Some, who have been old friends, will turn away, in bitterness and anger, as if they had been deserted and betrayed; others, not willing to be disturbed, will condemn the attempt even at the enquiry which I propose to bring before you; others, again, will look on with a careless wonder, unable to discover any reasonable cause for making such an enquiry at all.

* * * * *

I shall avoid in this letter all that might seem to bear upon the merits of the particular matter [Mr. Gorham's] still before the court.

In now entering on the question of your present position, my wish is, first, to bring before you two facts, as being chiefly important in their relation to immediate duties. And, secondly, I would suggest some further matter for your considera-

tion. The two facts of which I am about to speak are, one, the royal supremacy; and the other, the want of necessary dogmatic teaching in the reformed church of England.

It has been repeatedly said, during the progress of the case of Mr. Gorham, and by some whose authority we justly esteem, that, whatever the decision of the judge of the court of Arches might be, it would be merely the judgment of one man, a layman, and not the expression of the voice of the church of England. And, latterly, with regard to the judicial committee of the Privy Council, much the same language has been used: denying its right to deliberate on such a matter, and consequently the value of its decision. Hence it was urged that men who have been accustomed to teach the true Catholic doctrine of baptismal regeneration, would be at liberty to disregard the judgments of both the lower and the higher courts, and that their position as churchmen would be unchanged.

This from the beginning seemed to be a false view of the matter: and, on the contrary, that you are bound to regard the judgment, of either court, and therefore, more especially, that of the court of Appeal, as involving the most weighty consequences. I have always looked upon the judgment, when finally given in this case, as likely, in its results, vitally and essentially to affect the claim of the church of England to be a portion of the Church Catholic; in short, as being probably a voice of 'life or death,' and, if so, sufficient in the event to determine her existence as a Church.

The court of Arches is the proper court, and the

judge of that court is the proper judge, before whom questions like those involved in Mr. Gorham's case ought to be brought. And we must further remember that this is equally true of times previous to the incidents of the sixteenth century as well as since.

The question in his case was one, simply, of interpretation of the law of the church of England. That law is to be found in her published documents. It was not a question of what is, in itself, true or untrue, agreeable or not agreeable to the Holy Scriptures ;[1] but solely, whether a certain doctrine has or has not been clearly defined, to the exclusion of some other statement about the same doctrine which would seem to deny or to explain it away. The church of England in her provincial synods and convocations for centuries put forth—sometimes in canons; sometimes in rituals and liturgies and rubrics—statements of what she accepted and held to be Christian Truth. These statements, so put forth, were left to be interpreted and enforced by her own judges in her own courts.

For more than a thousand years the voice of the Church of England spoke one constant uniform language upon all the doctrines of the Faith: the language of the Catholic Church, with which, from her first foundation, she had been in perfect and

[1] This has been since declared more than once in decisions of the Judicial Committee. For example (1862), in Heath *v.* Burder, Lord Cranworth said: 'It would be a departure from our duty, if we were to admit any discussion as to the conformity or non-conformity of the Articles with the Holy Scriptures.' (1869.)

visible communion. Various changes and alterations upon many doctrines—very holy and mysterious doctrines—were made during the reigns of Henry VIII. and Edward VI. and Queen Elizabeth. These were chiefly embodied and declared in a new Form of Common Prayer and Administration of the Sacraments, and in the Articles of Religion of 1552 and 1562. Other alterations were subsequently made in the reigns of James I. and of Charles II. The duty of the court in the Gorham case was to decide upon the effect of these alterations and changes as to one doctrine, namely, the doctrine of baptismal regeneration. No one disputes that in the year (say) 1548 the doctrine of the church of England was clear and decisive upon this matter; and that she would then have condemned as heresy the denial of the unconditional and saving efficacy of baptism conferred on infants. The doubt arose upon the meaning of certain statements made by the church of England since that year; and whether, by the necessary effect of those statements, she has permitted her clergy to teach, and her people to believe, that the saving grace of regeneration is not always given to all infants in the sacrament of baptism. In other words, whether the reformed church of England has allowed this mysterious doctrine to be, what it had never been before, an open question.

Why, then, should it be supposed that the case of Mr. Gorham was not within the customary and proper jurisdiction of the court of Arches? It turned upon the right construction to be given to parts of the

ritual and catechism, compared with the thirty-nine Articles. And if the ancient practice was to suffer an appeal from a diocesan to the metropolitan in causes such as this, it is not easy to discover in what other spiritual court or before what other judge it could have been argued.

Nor, however [ritualists] might wish the contrary, can a more reasonable or more valid objection be brought against the court of Appeal. It is really trifling to pretend that because in former times ecclesiastical matters were always decided, at any rate finally, before an ecclesiastical tribunal, that therefore, upon that account only, the Established church of England is not bound now by the decisions of a court which, apparently, has no ecclesiastical element in it whatsoever, of which all the judges are lay, and which represents, in fact, the Queen. The same age which introduced the numerous changes, from whence spring all the present disputes within her, changed also the constitution of her ecclesiastical courts.

It will not be necessary to enter at full length into the statutes upon which the exercise of the royal supremacy is founded, whatsoever it may be. And I must disclaim all pretence of laying the case before you as a lawyer would. On the other hand, we are not only entitled but bound to enquire into the subject, and we may be, at least, excused for venturing to speak what seems to be the truth regarding it. This is all which I would attempt to do: asking indulgence for technical errors, and desiring

to be corrected in mis-statements and omissions. Let us, then, refer to some, and those the chief, Acts of Parliament which passed during the reigns of Henry, Edward, and Elizabeth, relating to this matter. If the documents brought before you are not sufficient to establish the point which I would insist on in the present letter—namely, the extent of the Supremacy—it will not, I suppose, be difficult for others to show how far and in what way they fail.

For, if it be allowed that in the year (say) 1520 the royal supremacy was, in some degree, different from the power exercised under the same name in 1550; and, if in the year 1532 the church of England granted some new authority, or restored some old authority to the Crown, it will remain for those who dispute the construction which I am about to put upon these statutes to show other limits within which the supremacy was confined, and the different nature of the authority which was granted or restored. And the same remark is equally applicable to those who are disposed to assert that the supremacy under queen Elizabeth, and since her days, is not the same as that which was claimed by her predecessors, Henry VIII. and Edward VI.

At the beginning of the reign of Henry VIII., the highest and final authority in all matters of faith and in all ecclesiastical 'causes,' resided in the Church Catholic: appeals ran from archdeacon to bishop, from bishop to archbishop, from the archbishop to the supreme pontiff, in their regular and appointed courts. I am now speaking of fact

only,[1] not at all discussing the further question of its propriety or agreement with the doctrine and discipline of the primitive Church. Nor is it worth while enquiring whether from time to time men objected against or resisted this authority, more especially when its decisions happened to be against them. It was a method of proceeding which rested on men's common faith as Christians, and on a practice beyond all memory, up to the earliest ages of the whole Western Church. There are texts of Holy Scripture which speak of the powers and prerogative given to S. Peter, and to the successors of the apostolate: and the people of the Church purchased by His Blood, Who gave the promise, gladly paid a due obedience, believing it to be among the best and highest of their privileges.

But in the year 1532, the statute 24 Henry VIII., c. 12, established the commencement of another order of things. Appeals to the see of Rome were prohibited in one class of spiritual causes, and in one class only: namely, in 'all causes testamentary, causes of matrimony and divorces, rights of tithes, oblations and obventions;' and the section of this Act which I am about to quote, explains the new arrangement which, so far as these causes were concerned, was to be the course adopted in future by the English church. The fourth section having declared that whosoever should procure from or to the see of Rome, or, from or to any other foreign court or

[1] The fact itself not being, even in theory, interfered with by the famous eighth Constitution of Clarendon. (1869.)

courts out of this realm, any appeals, &c., for any of the causes aforesaid, shall incur the pains and penalties of *præmunire*, the sixth provides that the appeal from the bishop diocesan, or his commissary, should be 'within fifteen days next ensuing the judgment or sentence thereof there given, to the archbishop of the province of Canterbury, if it be within his province; and if it be within the province of York, then to the archbishop of York;—and there to be definitively and finally ordered, decreed, and adjudged, according to justice, without any other appellation or provocation to any other person or persons, court or courts.' The Act further provides that in any case touching the king, the appeal should be to the upper house of convocation.

There are two things to be observed here, upon the provisions of this statute. First, not only did it then make the upper house of convocation a final court for the decision of some certain causes in which the Crown was a party, but it is also probable that, at least as regards those same causes, the upper house of convocation is the court before which they still legally must and ought to be decided. Hence, as a fact (if this view be not incorrect) the upper house of convocation is a court existing at the present moment, having power and authority by the statute law to exercise its jurisdiction within appointed limits. I have said, 'at least as regards those causes,' because it is open perhaps to doubt whether the terms of the Act 25 Henry VIII. c. 19 (to which we shall come next) placed all causes, including those touching the

king, under one and the same rule. The words on which this depends are, I suppose, the following; and it must be left for lawyers to determine their force: 'All manner of appeals, of what nature or condition soever they be of, or what cause or matter soever they concern, shall be made and had by the parties aggrieved, or having cause of appeal, after such manner, form, and condition, as is limited for appeals,' by statute 24 Henry VIII. c. 12. And further, upon the whole matter, it is to be carefully considered, how far it is affected by the Act of Will. IV., which repealed part of the 25th of Henry VIII. c. 19.[1]

The second thing to be observed is more important; namely, that the Act of 24th Henry VIII. c. 12, left all other causes, except those particularly specified therein, to be carried on, if appealed, according to the ancient practice.[2] Nor does it appear that at any time whatsoever, or under any statutes, or canons of the Church, either the archbishops or the upper house of convocation were supposed to be a final court of appeal in causes involving doctrine. And it is moreover to be remembered that it is the same statute of 24 Henry VIII. c. 12, which referred, for ultimate decision, some named spiritual causes to the archbishops, and to the upper house of convocation

[1] This doubt was finally settled, within six months after, by the three courts of Common Law, against any such jurisdiction still existing in the upper house of convocation. (1869.)

[2] Hence, this statute was not an example—as at first sight it might seem—of the exercise of the power of committing causes to inferior judges, 'appellatione remota,' which power alone belongs to those who are supreme, whether in things spiritual or temporal.

if any of those named causes touched the king, which also spoke of the sufficiency and meetness of the body spiritual, when any cause of the law divine happened to come in question, to declare and determine all such doubts, and to administer all such offices and duties, as to their rooms spiritual doth appertain. We do not find any such assertion made afterwards, in any statute of which the subject-matter was more wide and different, nor (which is to be well thought of) is the like power claimed by any later canon or article of the reformed church of England. I do not mean to say—far from it—that the language of the commencement of this famous statute is not of importance in the discussion of the question with which we are now concerned; but I do say that it has been, somewhat hastily, snatched at (if we may use the word) to prove what it will not prove, the acknowledged sufficiency and meetness of the church of England to determine, by its inherent power, and acting on its own divine authority, all spiritual causes whatsoever. For, as a fact, the statute did not give, nor did it pretend to give, its consent to so high a claim: the claim was not advanced by the Church upon the one hand, nor was the civil power concerned with the consideration of it upon the other. And whilst the Act itself remained in force, the body spiritual, 'usually called the English Church,' had no power to decide finally all causes involving doctrine. Appeals to Rome still were permitted, and the day which saw those appeals utterly and entirely forbidden, saw them transferred to a new supreme court, which no longer derived its authority

from, and exercised its jurisdiction in the name of, the Church Catholic, but the Crown.[1]

[1] The first section of this statute, although well known to most of us, ought to be placed here: 'Where by divers sundry old authentic histories and chronicles, it is manifestly declared and expressed, that this realm of England is an empire, and so hath been accepted in the world, governed by one supreme head and king, having the dignity and royal estate of the imperial crown of the same; unto whom a body politic, compact of all sorts and degrees of people, divided in terms, and by names of spirituality and temporality, been bounden and owen to bear, next to God, a natural and humble obedience; he being also institute and furnished, by the goodness and sufferance of Almighty God, with plenary, whole, and entire, power, pre-eminence, authority, prerogative, and jurisdiction, to render and yield justice, and final determination to all manner of folk, resiant, or subjects within this his realm, in all causes, matters, debates, and contentions, happening to occur, insurge, or begin within the limits thereof, without restraint, or provocation to any foreign princes or potentates of the world; the body spiritual whereof having power, when any cause of the law divine happened to come in question, or of spiritual learning, then it was declared, interpreted, and shewed by that part of the said body politick, called the spirituality, now being usually called the English Church, which always hath been reputed, and also found of that sort, that both for knowledge, integrity, and sufficiency of number, it hath been always thought, and is also at this hour, sufficient and meet of itself, without the intermeddling of any exterior person or persons, to declare and determine all such doubts, as to their rooms spiritual doth appertain, for the due administration whereof, and to keep them from corruption and sinister affection, the king's most noble progenitors, and the antecessors of the nobles of this realm, have sufficiently endowed the said Church, both with honour and possessions; and the laws temporal, for trial of property of lands and goods, and for the conservation of the people of this realm in unity and peace, without rapine or spoil, was and yet is administered, adjudged, and executed by sundry judges and ministers of the other part of the said body politick, called the temporality; and both their authorities and jurisdictions do conjoin together in the due administration of justice, the one to help the other.'

The statute, however, of which I have now been speaking, lasted for a few months only: in the next year another statute passed, which remained in force for nearly three centuries. This Act extended the prohibition against appeals to Rome to all causes, and removed the last jurisdiction also from the courts of the archbishops of each province. And I would again remind you, that the final decision of any causes, except those specified in stat. 24 Henry VIII. c. 12, was never placed within the jurisdiction either of the archbishops, or of the upper house of convocation. The third section of this Act, stat. 25 Henry VIII. c. 19, provides that 'no manner of appeals shall be had, provoked, or made out of this realm—of what nature, condition, or quality soever they be of; but that all manner of appeals, of what nature or condition soever they be of, or what cause or matter soever they concern, shall be made and had—after such manner, form, and condition, as is limited for appeals to be had and prosecuted within this realm in causes of matrimony, tithes, oblations, and obventions.' The fourth section proceeds to the constitution of the new court of appeal; and to this our particular attention is due, inasmuch as the ecclesiastical causes of the church and realm of England were governed and decided by it, from the days of king Henry to our own. 'IV. And for lack of justice at or in any of the courts of the archbishops of this realm, or in any of the king's dominions, it shall be lawful to the parties grieved to appeal to the king's majesty in the king's court of Chancery; and that upon every such

appeal, a commission shall be directed under the great seal to such persons as shall be named by the king's highness, his heirs or successors, like as in case of appeal from the Admiral's Court,[1] to hear and definitively determine such appeals, and the causes concerning the same; which commissioners, so by the king's highness, his heirs or successors, to be named or appointed, shall have full power and authority to hear and definitively determine every such appeal, with the causes and all circumstances concerning the same; and that such judgment or sentence as the said commissioners shall make and decree in and upon any such appeal shall be good and effectual, and also definitive; and no further appeals to be had or made from the said commissioners for the same.' These commissioners were called Delegates.

In the year 1554, the above Act was repealed by stat. 1 & 2 Philip and Mary, c. 8, and revived (together with several other Acts of the reigns of Henry VIII. and Edward VI. relating to spiritual matters) by stat. 1 Eliz. c. 1. This last requires one or two remarks, as it bears much upon the question of the extent, and meaning, and authority of the royal supremacy. Great importance belongs, also, to the statutes of queen Elizabeth from another consideration; namely, that during her reign the eccle-

[1] Considering the nature of the subject, this business-like, commonplace manner of disposing of the little details of the new arrangements is really deserving of our admiration: 'like as in case of appeal from *the Admiral's Court*:'—could anything be better?

siastical principles and future policy of the modern Church of England were rapidly developed.

This statute is entitled 'An Act to restore to the crown the ancient jurisdiction over the state, ecclesiastical and spiritual, and abolishing all foreign powers repugnant to the same.' It is not unusual for writers of the high-church party to rely on the words, occurring both in the title of the act and in the act itself, 'the ancient jurisdiction;' and they argue that as it is quite certain that 'the ancient jurisdiction' of the crown never reached, or was asserted to have reached, so far as to the decision of doctrine, so this act, in like manner, by the use of that vague term, limits the queen's supremacy. Lawyers can best decide how far such an argument is good; we will proceed to the act itself, and perhaps its express language, together with the experience of three centuries, will incline us rather to question the value of it.

Yet, in passing, it may be well for us to enquire what a very great authority has said as to the extent and nature of this 'ancient jurisdiction' in his own day.

Bracton, in the fifth tract of his fifth book *De legibus et consuetudinibus Angliæ*, having first defined jurisdiction to be 'nihil aliud quam habere auctoritatem judicandi sive jus dicendi inter partes de actionibus personarum et rerum,' proceeds in the next chapter to distinguish between the spiritual and the temporal jurisdiction. 'Est etiam jurisdictio quædam ordinaria, quædam delegata quæ pertinet ad

sacerdotium et forum ecclesiasticum, sicut in causis spiritualibus et spiritualitati annexis. Est etiam alia jurisdictio ordinaria vel delegata quæ pertinet ad coronam et dignitatem regis ad regnum in causis et placitis rerum temporalium in foro seculari.—Clericus in nullo conveniendus est coram judice seculari quod pertineat ad forum ecclesiasticum, sicut in causis spiritualibus vel spiritualitati annexis.' In the third chapter, where the author begins to speak of prohibitions, he treats of them as directed against ecclesiastical courts exercising either ordinary or delegated jurisdiction; and there is no doubt that he considers the highest source from whence any delegated jurisdiction can be derived to be the pope, and that it is rightly so derived. All this is made clear by what is stated in the 15th chapter. 'In fine notandum de jurisdictione majorum et minorum, et imprimis sicut dominus papa in spiritualibus super omnibus habeat ordinariam jurisdictionem, ita habet rex in regno suo ordinariam in temporalibus, et pares non habet, neque superiores, et sunt qui sub eis ordinariam habet in multis, sed non ita meram sicut papa vel rex. Et pares esse poterunt illi qui inferiores sunt in jurisdictione sua multis rationibus, sed par in parem non habebit jurisdictionem non magis quam imperium, et multo fortius nec in superiorem.'[1]

[1] The distinction being laid down by Bracton of the two jurisdictions, ecclesiastical and temporal, he speaks in strong terms in other parts of his work, of the just authority which the king possesses in all temporal matters. Thus in the first part of the 3rd book, ch. 9, we read, 'Cum autem de regimine sacerdotii nihil pertineat ad tractatum istum, ideo videndum erit de iis quæ perti-

Returning to the stat. 1 Eliz. c. 1, the 16th section enacts, that all foreign power and authority spiritual

nent ad regem, quis primo et principaliter possit et debeat judicare. Et sciendum quod ipse rex et non alius, si solus ad hoc sufficere possit, cum ad hoc per virtutem sacramenti teneatur astrictus.—Separare autem debet rex (cum sit Dei vicarius in terra) jus ab injuria, *etc.*—Nihil enim aliud potest rex in terris, cum sit Dei minister et vicarius, nisi id solum quod de jure potest.—Igitur dum facit justitiam, vicarius est regis æterni, minister autem diaboli, dum declinet ad injuriam.' Again, in his first book, ch. 8, 'Ipse autem rex, non debet esse sub homine, sed sub Deo et sub lege, quia lex facit regem. Attribuat igitur rex legi quod lex attribuit ei, videlicet dominationem et potestatem, non est enim rex ubi dominatur voluntas, et non lex.' But all is prefaced, in the same chapter, by this statement: 'Apud homines est differentia personarum, quia hominum quidam sunt præcellentes et prælati, et aliis principantur. Dominus papa videlicet in rebus spiritualibus, quæ pertinent ad sacerdotium :—item in temporalibus sunt imperatores, reges,' *etc.*

Lyndwood lived several generations after Bracton, and it may be objected that in his days 'the ancient jurisdiction' was changed from its original state. Therefore, without quoting him at length, I would refer the reader to the second book of the Provinciale, *tit.* 1: Quidam ruralium, *verb.* Ante citationem factam. One chapter, however, of this title is the famous writ or statute Circumspecte agatis; of which the beginning runs: 'De negotio tangente Norwicensem episcopum, et ejus clerum, non puniendo eos, si placitum tenuerint de his quæ sunt mere spiritualia, videlicet de correctionibus quas prælati faciunt, utputa, pro fornicatione, adulterio, et hujusmodi,' *etc.* On which last word the gloss is, 'Verbi gratia stupro, incestu, et aliis quæ sub peccato luxuriæ continentur: hic potes addere alia crimina, quæ etiam sunt tractanda et punienda in foro ecclesiastico; viz. sacrilegium, hæresis,' *etc.* Also to the fifth book, *tit.* 5: Item quia, *verb.* ordinarii: where it is laid down —'Est enim causa hæresis una de majoribus causis quæ pertinent ad solos episcopos.' And to the third book, *tit.* 23: Sæculi principes, *verb.* custodia carcerali.

I would also refer the reader to Thomassin, *Vetus et nova ecclesiæ disciplina, pars* 2. *lib.* iij. *cap.* 101–114. And to the *Prompta Bibliotheca* of Ferraris, *verb.* Appellatio.

and temporal should 'be clearly extinguished;' and the 17th thus continues: 'XVII. And that also it may likewise please your highness, that it may be established and enacted by the authority aforesaid, that such jurisdictions, privileges, superiorities, and pre-eminences spiritual and ecclesiastical, as by any spiritual or ecclesiastical power or authority hath heretofore been, or may lawfully be exercised or used for the visitation of the ecclesiastical state and persons, and for reformation, order, and correction of the same, and of all manner of errors, heresies, schisms, abuses, offences, contempts, and enormities, shall for ever by authority of this present parliament be united and annexed to the imperial crown of this realm.' The 18th section created the high commission court to execute under the queen 'the said spiritual and ecclesiastical jurisdiction.'[1] This court was abolished by stat. 16 Car. I. c. 11. The 19th section contained the oath of supremacy, which was changed into the form in which clergymen now [1850] take the same oath, by stat. 1 William and Mary, c. 8. We pass on to section 36, which is highly deserving of our especial con-

[1] Coke's fifth report, *de jure regis ecclesiastico*, Caudrey's case, bears upon the subject of this section: in which it was endeavoured to be shown, and so it was said that the judges resolved, that the act 1 Eliz. c. 1 was not introductory of a new law, but declaratory of the old; and that the king by the ancient law could make such an ecclesiastical commission. The examples which Lord Coke has produced in support of this, are argued by Stillingfleet to fall 'very far short of being demonstrative proofs, as he calls them.' *Ecclesiastical cases, cap.* 2. The question, however, before both writers, is not exactly the same with that into which we are now enquiring.

sideration.[1] 'XXXVI. Provided always, and be it enacted by the authority aforesaid, that such person or persons to whom your highness, your heirs or successors, shall hereafter give authority to have or execute any jurisdiction, power, or authority spiritual, or to visit, reform, order, or correct any errors, heresies, schisms, abuses, or enormities, by virtue of this act, shall not in any wise have authority or power to order, determine, or adjudge any matter or cause to be heresy, but only such as heretofore have been determined, ordered, or adjudged to be heresy, by the authority of the canonical scriptures, or by the first four general councils, or any of them, or by any other council whereby the same was declared heresy by the express and plain words of the said canonical scriptures, or such as hereafter shall be ordered, judged, or determined to be heresy by the high court of parliament of this realm, with the assent of the clergy in their convocation; anything in this act contained to the contrary notwithstanding.' I am not well acquainted with acts of parliament, and must speak doubtfully: but so far as I am aware, since that time there is no other act, and no other clause of an act, which recognises convocation as a spiritual body entitled to give or to withhold assent in any instance whatsoever of ecclesiastical legislation.

[1] It has been said that this section, together with the 18th, is repealed by stat 18 Car. I. c. 11; but I believe [1850] that the point has not been brought before any court of law; and, besides, it is well for us to see whether it really does limit, to the extent which some affirm, the power of the supremacy in matters of doctrine.

It is further to be observed that the same section—on which, as sufficiently limiting and duly restricting the power of the state, much reliance has been placed—is open to two very serious objections to such an interpretation. First, it declares the high court of parliament to be the first mover in ordering, judging, and determining any matter to be heresy, and therefore suffers the convocation to come in only as it were secondarily, and certainly only as a party assenting, or having a veto; secondly, it places no limit, and does not pretend to place a limit, on the civil power in deciding any doctrine, cause, or matter *not* to be heresy.

In the year 1562 another statute [5 Eliz. c. 1] passed, 'For the assurance of the queen's royal power over all estates and subjects within her dominions.' This should be noticed, because it refers to and—if it may be called a definition—it defines the meaning of the oath of supremacy. 'XIV. Provided also, that the oath expressed in the said act made in the said first year, shall be taken and expounded in such form as is set forth in an admonition annexed to the queen's majesty's injunctions, published in the first year of her majesty's reign; that is to say, to confess and acknowledge in her majesty, her heirs and successors, none other authority than that was challenged and lately used by the noble king Henry the eighth and king Edward the sixth; as in the said admonition more plainly may appear.' The admonition so referred to in like manner declares that the oath of supremacy, enforced by queen Elizabeth, was

to be accepted as intending no other duty, allegiance, or bond—neither more nor less—than was acknowledged to be due to Henry the eighth and Edward the sixth. The old oath of supremacy, however, and its exact meaning, are not the subject with which we have now to deal. What we are considering is not an oath imposed upon some persons holding certain offices ecclesiastical and lay, as a kind of qualification, but the nature and extent of the royal supremacy itself.

For nearly 300 years the method of finally deciding all ecclesiastical causes by a court of delegates was continued. Within our memory, however, nay, within the last twenty years [1850], a complete change was made in the constitution of the court of appeal: and it was thought right by 'the king's majesty,' as 'the only and undoubted supreme head of the church of England,' in future 'to hear and determine all manner of causes ecclesiastical,' in another way, and according to a new fashion.

By the statutes 2 and 3 Will. IV. c. 92, and 3 & 4 Will. IV. c. 41, all the power and jurisdiction of appeal was transferred from the court of delegates to the judicial committee of the Privy Council. The first of these abolished the old court, and placed the appellate jurisdiction in 'the king in council,' whose judgment, order, and decree should have 'the like force and effect in all respects whatsoever, as the same respectively would have had if made and pronounced by the high court of delegates; and that every such judgment, order, and decree shall be final

and definitive, and that no commission shall hereafter be granted or authorised to review any judgment or decree to be made by virtue of this act.'[1]

The second of these statutes of Will. IV. restricted the hearing of appeals to the 'Judicial Committee of the Privy Council;' which committee is to be composed of an uncertain number of *ex officio* members, together with two other persons appointed by the crown from time to time, being privy councillors. All these persons are, without exception, laymen; and I believe one only of the number must necessarily be a member of the established church. The lord chancellor is not to be in the communion of the church of Rome, but he may be of any kind or denomination of dissent. The others may be of whatever religious belief they choose; presbyterian, socinian, independent, or quaker; or of no religious belief at all.

Under the previous regulation, the decision of the court of delegates was definitive, subject to the rare exception of a commission of review; not exactly so

[1] I quote the statutes from Mr. Stephens' edition of the Ecclesiastical and Eleemosynary Laws of England; and the following is one of the editor's notes on the stat. 25 Henry VIII., c. 19. The last clause is important. Referring to the *definitive* sentence of the court of delegates, Mr. Stephens says: 'The crown, after such sentence, was not precluded from granting a commission of review; first, because it was not restrained by the statute; secondly, that, after a definitive sentence, the pope, as supreme head by the canon law, used to grant a commission *ad revidendum*; and such authority as the pope had, claiming as supreme head, doth of right belong to the crown, and is annexed thereunto.'—*Goodman's case*, Dyer, 273. *Haver* v. *Thorol*, Lit. 232.

the judgment of the judicial committee. Their judgment is to be in the shape of 'a report, or recommendation to her majesty in council for her decision thereon.' And so far as I can discover from the words of the statute, there is nothing whatever—except, perhaps, custom and precedent—to prevent 'her majesty in council' from either rejecting the report, or modifying and changing the terms and language in which it may be drawn up.

We know what is meant now-a-days by 'her majesty in council.' Perhaps people may think it of little consequence that the affairs of the established church are at least *liable* to be finally decided by an irresponsible cabinet, which the English constitution has never recognized, and whose existence is an anomaly. But they may care to recollect that not only 'appeals from her majesty's courts of admiralty in causes of prize,' but appeals also from the courts of judicature in our Indian empire, and from all our colonies, and other dominions of her majesty abroad, are, in like manner and to no less extent, subject to the revision and approval of 'her majesty in council:' who is not bound nor required by the statute to accept and ratify the Report of the judicial committee.[1]

But it may be objected, that the royal supremacy, —whether exercised, as of old, by a court of delegates, or, as now, by the judicial committee of the privy council,—does not reach to the decision of doctrine, or

[1] This liberty of the crown carries with it a power, as the reader will perceive, altogether different from the old 'commission of review.'

to interference with any matter of faith. The statutes, however, will give us some information on this point: and two or three extracts from them will be sufficient, probably, to show you that they do not leave the question in much doubt.

The 25th of Henry the eighth, by which the delegates were appointed, begins with the recital of the submission of the clergy. The effect of this submission, as expressed in the statute, is thus explained by a late writer, whose words I quote. 'By this act of submission a meaning and force are given to the royal title [Supreme Head] which otherwise it need not have had. With the title the king obtains corresponding powers; the clergy give him authority over their deliberations; a negative voice in all their proceedings, and power to review and suspend the past. All laws and constitutions of the English church then in force were liable to abrogation by the king's supreme authority, and the obsolete legislation of the past liable at the same bidding to be quickened into life. [?] The church of England, in convocation represented, surrendered deliberately her jurisdiction into secular hands; depriving herself of the power to make canons for her own guidance, *and of accepting the sentence of even an œcumenical council*, unless with the consent of the supreme civil authority.'[1]

It will be well to bring before you the whole of one statute, a short one, and much to the purpose. I mean the 26th Hen. VIII. c. 1. Premising, however,

[1] Lewis on the nature and extent of the Royal Supremacy, p. 12. 8vo. 1847.

that I do not quote it as being now in the statute book, inasmuch as it was repealed in the reign of queen Mary, and not revived by the stat. 1 Eliz. c. 1. But it is, as I have said, greatly to the purpose, because the authority and power claimed by Elizabeth and her successors, and acknowledged by the established church, is 'none other than was used' by Henry and Edward. The title of this act is, '*The king's grace to be authorized Supreme Head.*' Undoubtedly the titles are not parts of statutes, and therefore not law; but, more especially in ancient statutes, they are not to be altogether (I suppose) disregarded in the interpretation of them. 'Albeit the king's majesty justly and rightfully is and ought to be the supreme head of the church of England, and so is recognized by the clergy of this realm in their convocations, yet nevertheless, for corroboration and confirmation thereof, and for increase of virtue in Christ's religion within this realm of England, and to repress and extirp all errors, heresies, and other enormities and abuses heretofore used in the same: be it enacted by authority of this present parliament, that the king our sovereign lord, his heirs and successors, kings of this realm, shall be taken, accepted, and reputed the only supreme head in earth of the church of England, called *Anglicana Ecclesia*; and shall have and enjoy, annexed and united to the imperial crown of this realm, as well the title and style thereof, as all honours, dignities, pre-eminences, jurisdictions, privileges, authorities, immunities, profits, and commodities to the said dignity of supreme

head of the same church belonging and appertaining; and that our said sovereign lord, his heirs and successors, kings of this realm, shall have full power and authority from time to time to visit, repress, redress, reform, order, correct, restrain, and amend all such errors, heresies, abuses, offences, contempts, and enormities, whatsoever they be, which by any manner spiritual authority or jurisdiction ought or may lawfully be reformed repressed, ordered, redressed, corrected, restrained, or amended, most to the pleasure of Almighty God, the increase of virtue in Christ's religion, and for the conservation of the peace, unity, and tranquillity of this realm; any usage, custom, foreign laws, foreign authority, prescription, or any other thing or things to the contrary hereof notwithstanding.'[1]

Rather more than ten years afterwards, a like explanation of the power of the crown was repeated in more distinct terms (if possible) by stat. 37 Hen. VIII. c. 17, which statute is now in force. Herein it was declared that the king's majesty 'is and hath always justly been, by the word of God, supreme head in earth of the church of England, and hath full power and authority to correct, punish, and repress all manner of heresies, errors, vices, sins, abuses, idolatries, hypocrisies, and superstitions, sprung and growing within the same, and to exercise all other manner of jurisdictions, commonly called

[1] Compare stat. 28 Hen. VIII. c. 5 [Ir.] '*authorising the king, his heirs and successors, to be supreme head of the church of Ireland.*' This act, I believe, has never been repealed.

ecclesiastical jurisdiction;' and that 'the archbishops, bishops, archdeacons, and other ecclesiastical persons, have no manner of jurisdiction ecclesiastical, but by, under, and from the royal majesty;' and that the king's majesty 'is the only and undoubted supreme head of the church of England, and also of Ireland, to whom by Holy Scripture all authority and power is wholly given to hear and determine all manner causes ecclesiastical.'

A single extract from the statutes of king Edward the sixth will suffice: namely, stat. 1 Edw. VI. c. 2, to the following effect. 'Authority of jurisdiction, spiritual and temporal, is derived and deducted from the king's majesty, as supreme head of these churches and realms of England and Ireland, and so justly acknowledged by the clergy of the said realms, that all courts ecclesiastical within the said two realms be kept by no other power or authority, either foreign or within this realm, but by the authority of his most excellent majesty.'

The first act of the reign of queen Elizabeth, reviving the statutes in which the royal supremacy is declared, and which had been repealed during the reign of queen Mary, has been already remarked upon; and also the modern statutes of king William the fourth; and you will observe that in none of these is there the slightest appearance of any limitation upon the power granted to and to be exercised by Henry the eighth and Edward the sixth.

Can it, then, be said that the royal supremacy does not extend to the determination of questions in which

doctrine and matters of the Christian faith are concerned? for example, that the crown, in virtue of it, is exceeding its just prerogative in claiming finally to decide the case of Mr. Gorham against the bishop of Exeter, involving, as such a cause necessarily does, the doctrine of baptismal regeneration? If so, what can be the meaning of the words of the statutes which have been quoted, giving to the king's majesty authority to correct, &c. all manner of heresies; and to exercise all manner of jurisdictions, commonly called ecclesiastical jurisdiction; and that whatsoever spiritual or ecclesiastical power or authority hath heretofore been for the reformation and correction of all manner of errors, heresies, and schisms, shall for ever be united and annexed to the imperial crown of this realm?

Still, it may be further objected, that all the foregoing statutes and decrees are merely acts of parliament, or encroachments of the state, or submitted to by the reformed church of England as to a kind of persecution, and the like. It would be something strange to hear of a supposed endurance of a fictitious 'persecution' for two or three hundred years; but let that pass. There is absolutely no ground or reason whatever for such a pretence. If language means any thing, the modern church of England is a willing and consenting party to the declarations of the civil statutes of the realm: and not only has she allowed this by a continued and contented acquiescence for the entire period, but the whole arrangement seems to be both in complete accordance with her posi-

tive assertions of what is right and good, and in truest harmony with her own spirit.

It may be, perhaps, a question whether the form of submission of the clergy can be referred to as furnishing any conclusive evidence on the particular point now before us. It may very fairly be said that by this submission the clergy of England promised, *in verbo sacerdotii*, never to allege or put in ure, or to enact any canons and constitutions, unless with the consent previously obtained of the king's highness; but that, as regarded the final determination of causes ecclesiastical, it declared nothing either the one way or the other. We will not, therefore, at present delay upon this, or enquire how far in its sure consequences it involved such a result.

It has been said also, that the authority of a final court of appeal in ecclesiastical causes is distinct from the supremacy, does not rest upon the same foundation, and may be treated of, objected against, and restrained, without injury to the royal prerogative. Certainly, it may be true, that the court of delegates, and the judicial committee of the privy council, were both established by acts of parliament: and not, expressly in words, by virtue of the royal supremacy; nor, as it were, giving a required sanction of the legislature to its exercise. Whether therefore, if we look only to statutes, the 'Supremacy' can be shown to be, after all, a shadow and a bugbear, I cannot tell: but a final court of appeal, somewhere, and appointed by some sufficient authority, there must be. And it would be a new thing to learn that there is any court

in this realm, which is not understood to derive its power and jurisdiction, mediately or immediately, from the crown: the civil courts from time immemorial, and the spiritual courts since the reformation. Until, however, the distinction which has been mentioned can be shown, so as to relieve men's consciences from a real, practical grievance, we cannot be wrong, I think, in speaking of the power of final appeal in ecclesiastical causes as based upon or springing from the royal supremacy: and, in that case, the question of the supremacy is left to be considered as anxiously as if no such distinction could be drawn.

The title of supreme head arrogated to himself by Henry the eighth, and allowed and confirmed by repeated statutes during his reign, was altered into the somewhat less objectionable title 'supreme governor' in the time of queen Elizabeth. It is positively incredible that Henry should have desired the title of supreme head to have been given to him, in the strict sense in which it belongs to our Blessed Lord: and, it is clear that he did not himself so understand the words, because he added to them continually, 'in earth.' Thus plainly distinguishing his own rights and authority—whatsoever it might be—as supreme head in earth, from the power and authority of Him Who is the Supreme Head in heaven of His Body, the Church. Still, the title, used in any way, was objectionable, and likely to be misunderstood: and the convocation would not suffer it to pass (in their grant of money for release of the *præmunire*) without a qualification. The acknowledgment of the supre-

macy was first proposed in this form; 'Ecclesiæ et cleri Anglicani cujus protector et supremum caput is solus est:' i.e. the king.[1] But it passed as follows;—'Ecclesiæ et cleri Anglicani (cujus singularem protectorem unicum et supremum dominum et quantum per Christi legem licet etiam supremum caput ipsius majestatem recognoscimus), *etc.*'[2] Much stress has been laid upon the qualifying words 'quantum, *etc.*' which, after all, are loose and indefinite enough: but, in truth—and I would direct your especial attention to the point—they do not touch or bear upon the matter really before us, namely, the authority and power of the king's majesty as supreme governor in earth of the church of England. It is a clause explaining in what sense the title 'supreme head' is to be taken and allowed, and explaining nothing but with respect to that: '*quantum per Christi legem licet.*' And the fact remains of the submission of the clergy to the king, as 'the sole protector, the only and supreme governor and lord, of the church and clergy of England.'[3]

[1] Collier, *vol.* 2, *p.* 62. [2] Wilkins, *tom.* 3, *p.* 742.

[3] A few years after (in 1534) the clergy in convocation sent a petition to the king, about suspected books, addressed to him as 'fidei defensorem, ecclesiæque Anglicanæ (sub Deo) caput supremum.' And the proclamation which followed spoke of his highness as 'immediately under God, justly and lawfully sovereign, chief, and supreme head, immediately under Christ.' Ibid. *p.* 776. So, also, Henry, in his 'license' to Cranmer to decide and give sentence in the cause of queen Catherine of Arragon, declares that the archbishop is 'the most principal minister of our spiritual jurisdiction within our realm;' he himself, the king, having 'no superior on earth, but only God.' *State Papers, vol.* 1, *p.* 392. Four or five

It is unnecessary to remind you of the many things, deeds and circumstances, which followed, during the next hundred years, upon this concession by the church of England: such as the acceptance by bishops of commissions to execute their office and ministry; the appointment of a vicar-general; and of a high-commission; the issuing of injunctions, or articles, or admonitions: these may well be left for some future opportunity, if it should be required. Such acts are of most material importance in a discussion like the present: for it is from them that we can best learn what was understood by contemporaries to be, practically, the meaning and extent of the royal supremacy. Nor is it to be said that these things were done against the will and consent of the English church. During the whole period, convocation was continually sitting, deliberating, passing articles, and canons, and forms of prayer. Where is the proof of (at least) her protest against such an improper—if it be improper—exercise of the supremacy? where is there any declaration on her part that the acts of Henry, or Edward, or Elizabeth, were not in accordance with her own desire and intention as a body spiritual, and a legitimate consequence of her course of reformation?

Rather, upon the contrary, let us listen to her own

years afterwards Henry sat in person, upon appeal to him from the archbishop's court, and heard the cause of John Lambert, accused of heresy. Cromwell, writing to Wyatt, tells him that on that occasion 'it was a wonder to see how princely, with how excellent gravity, his majesty exercised the very office of superior head of his church of England.' Nott's *Wyatt, p.* 326.

words, as spoken in her convocations. The inscription of *the Institution of a Christian man* is to 'Henry the eighth—supreme head in earth immediately under Christ of the Church of England;' and the book is offered to the king, by his supreme power to be set forth, 'without the which power and license of your majesty,' the preface states, 'we knowledge and confess that we have none authority, either to assemble ourselves together for any pretence or purpose, or to publish anything that might be by us agreed on and compiled.'

The *Reformatio legum* declares as follows, under the head 'Jurisdictio regis:' and I cite this only as an illustration. 'Rex tam in archiepiscopos, episcopos, clericos, et alios ministros, quam in laicos infra sua regna et dominia, plenissimam jurisdictionem, tam civilem quam ecclesiasticam, habet, et exercere potest, cum omnis jurisdictio, et ecclesiastica et secularis, ab eo tanquam ex uno et eodem fonte derivatur.'[1]

Far more weighty are the canons of 1604, and the 39 articles of the reformed church of England; and with these we will conclude. Take the canons to begin with. The 55th requires all preachers before their sermons to use a form of prayer, or one to the same effect, in which the sovereign is spoken of as 'supreme governor in these his realms, and all other his dominions and countries, over all persons, in all causes, as well ecclesiastical as temporal.' The first of these same canons is more remarkable. 'We first

[1] De officio et jurisdictione omnium judicum, *cap.* ij.

decree and ordain that—all ecclesiastical persons having cure of souls, and all other preachers, shall, to the uttermost of their wit, knowledge, and learning, purely and sincerely (without any colour or dissimulation), teach, manifest, open, and declare, four times every year (at the least) in their sermons—that the king's power within his realms is the highest power under GOD.' And the title of this canon is, '*The king's supremacy over the church of England, in causes ecclesiastical, to be maintained.*'[1] The second canon, also, is very important, because it punishes with excommunication any who shall impeach the royal supremacy in causes ecclesiastical, '*by the laws of the realm* therein established.' As to the articles, the 37th affirms, 'that the queen's majesty hath the

[1] The canons also of 1640, which were drawn up under archbishop Laud, accepted by the convocations of both provinces, and ratified by the king, might also have been referred to. The first of these speaks of the supreme power given to the most high and sacred order of kings; and orders the explanation of this supremacy, as laid down in the canon, to be preached and taught once, every quarter of the year. But this canon is chiefly remarkable, because it allows the right of excommunication to the royal supremacy: declaring that 'if any ecclesiastical person whatsoever, publicly maintains any position, in impeachment of the aforesaid explications, he shall forthwith, *by the power of his Majesty's commissioners for causes ecclesiastical*, be excommunicated till he repent.' Indeed, a like or equal power belongs to the judicial committee of the Privy Council: because excommunication being a process of courts, and the final appeal resting in that committee, it is easy to conceive how it might order a person excommunicated by the spiritual judge—whether bishop or archbishop—to be restored to communion and to the sacraments of the Church. [The history of the case of the bishop of Natal has given us, since 1850, much instruction upon this point.]

chief power in this realm of England, and other her dominions, unto whom the chief government of all estates of this realm, whether they be ecclesiastical or civil, in all causes doth appertain.'

It is said that the article proceeds to limit this 'chief power.' I am quite ready to allow it: and the very limitations themselves rather serve to the establishment and acknowledgment of whatsoever power and authority they do not restrict. The article denies to our princes the ministering of GOD'S word, or of sacraments: but this is all which it denies. And by the term 'ministering of GOD'S word,' we cannot understand the power of deciding spiritual causes, in which doctrine is involved, to be denied to the crown, but only the office of public preaching. As it is expressed in the twenty-third article, in a parallel passage, 'the office of public preaching, and of ministering the sacraments;' the same two spiritual functions which 'the civil magistrate' may not exercise. But we must have some evidence to show that 'the ministering of GOD'S word' was ever supposed to refer in any way to the decision of causes involving doctrine. Having, however, laid down these limits, the article declares the royal prerogative to be, that our princes should rule all estates and degrees committed to their charge by GOD, whether they be ecclesiastical or temporal. Nor can I help adding, that when the authority of *the Church* is spoken of, it is in very much more moderate language; as an authority, which need not be more than that right of *assenting* allowed by the statute of Elizabeth, already

quoted. 'The Church hath—authority in controversies of faith.' *Art.* xx. And having said this much, we have two long sentences warning us against the possibility, and repudiating the right, of 'the Church' ordaining anything contrary to God's word written, or, besides the same, enforcing any thing to be believed for necessity of salvation.

We have not ended yet: there is one thing more to be remembered, and this the nearest to your conscience, as a protestant clergyman: I mean the oath of supremacy taken at your ordination, your promise at the same time, and your subscription to the first article of the 36th canon. Well known as these may be, it will be desirable to place them before you; and, remembering the terms and words used in the documents which have been already cited, let me ask you to give them your careful consideration.

'*The oath of the queen's supremacy.* I, A. B. do swear, that I do from my heart abhor, detest, and abjure, as impious and heretical, that damnable doctrine and position, That princes excommunicated or deprived by the pope, or any authority of the see of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm. So help me God.'

Next, the promise. '*The bishop.* Will you then give your faithful diligence always so to minister the doctrine and sacraments, and the discipline of Christ,

as the LORD hath commanded, and as this Church *and Realm* hath received the same, according to the commandments of GOD; *etc.? Answer.* I will so do, by the help of the LORD.' If the words 'and realm' mean nothing, why are they inserted? mere surplusage, at such a time, and in so solemn an office, would be singularly out of place. More remarkable, perhaps, is the corresponding place in the form of consecrating a bishop. "— such as be unquiet, disobedient, and criminous, within your diocese, will you correct and punish, according to such authority as you have by GOD'S Word, and as to you shall be committed by the ordinance of this Realm? *Ans.* I will so do, by the help of GOD.'

And, lastly, the first of the three articles of the 36th canon.

'1. That the queen's majesty, under GOD, is the only supreme governor of this realm, and of all other her highness's dominions and countries, as well in all spiritual or ecclesiastical things or causes, as temporal; and that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within her majesty's said realms, dominions, and countries.'

Now, certainly, I am not about to enquire whether it be, or be not, according to the Word of GOD that the queen is supreme governor in earth of the church of England; nor, whether all manner of jurisdiction ecclesiastical exercised by archbishops and bishops does, or does not, rightly flow from her royal majesty;

nor, whether it be right that very difficult and deep questions of the Christian Faith should be, or should not be, referred from bishops and spiritual courts to laymen, and, at last, finally determined by a court of appeal, whose members may possibly be heretics or unbelievers: but I do say that the principle of such a system has been deliberately approved, accepted, and for three hundred years insisted on, as accordant with the true spirit of the Gospel, by the church of England. It may be that during that period the chief cases appealed from in the ecclesiastical courts, have been concerned with matters temporal rather than spiritual; such as disputed wills, and the like. But we do not accurately know, nor shall we ever perhaps learn, how great the real, practical, influence of the royal supremacy has been, over the established church since the time of its first founder, in its modern shape, king Henry the eighth: more especially during the reigns of Elizabeth and James the first. Whatever it may have been, good or bad, right or wrong, the supremacy is part and parcel of that pure and apostolical branch, the reformed church of England; and as she has made her bed, so must she lie on it.[1]

It is hard, therefore, to see upon what grounds, which shall satisfy their consciences, people may refuse to listen to the decision of the court of appeal, in dis-

[1] The last sentence was omitted in the later editions of this 'Letter' in 1850. Men who then could rightly claim to be listened to by the author, remonstrated with him strongly, and he had no hesitation in striking it out. 1869.

puted questions of doctrine: more especially in such a case as Mr. Gorham's, which is, as I have said, of the interpretation of existing documents and not of the truth of any doctrine. It is, of course, impossible to draw an exact line where interpretation of doubtful documents, by a supreme and final authority, is always to be distinguished and separated from the power of declaring the truth or falseness of a doctrine. However this may be, to reject the decision of a court, upon any matter really within its jurisdiction, before which we have consented to plead, and against whose creation we did not protest, because it happens to be against us, is the act of children and not of men.

There is more force, perhaps, in the suggestion, that if at any time a decision should be given by the court of appeal, which the church of England, as a body spiritual, should believe to be in contradiction to Catholic truth, it would be necessary for her, and not only necessary but sufficient, plainly to correct the error without delay, and reassert the doctrine which had been mistaken by the court. Yet this would be scarcely in agreement with her own positive assertions about the supreme headship of the sovereign; rather, it would be something like rebellion against a person, who 'by the word of GOD has full power and authority to correct all manner of heresies and to exercise all ecclesiastical jurisdiction.' It is, however, so visionary a thing, to contemplate the possibility of an English convocation, assembled not merely without the permission but against the will of the queen, that

one would not stop to speak of it. And it might not, moreover, be difficult to show that a convocation, now-a-days, would be likely to set at rest the claim of the reformed church of England to be a portion of the church Catholic, in a way not exactly calculated to satisfy the consciences of many people, who are anxious so to regard and believe her.[1]

One brief word more on the question of the probability of an English convocation meeting to decide doctrines, and to put forth fresh canons or articles of faith, without the consent and authority of the crown. Is it quite certain that the 21st article does not bear upon the matter? Is it altogether to be overlooked in discussing the extent to which the English church has recognised the royal supremacy? What does the article say? 'General councils may not be gathered together without the commandment and will of princes.' Here is a complete sentence, affirming one, distinct, proposition; unconnected in any way with the rest of the article, which proceeds to limit the power of a general council when it does meet. We are all aware that a common explanation of this assertion is, that when princes—whether Christian or heathen—refuse, for any cause whatsoever, to suffer the assembling of a general council, and have power by imprisonment (for example) to prevent the bishops of the Church from so meeting, then, the general council *may* not, because it *can not*, 'be gathered

[1] [Since the above passage was written, convocation has met often. What has been done? Have its members shown themselves to be in earnest, or only actors in some childish play?]

together.' If this really be the true interpretation to be given to the clause, one can only remark that the framers of our articles need not have troubled themselves to express so very obvious a truism: and, at any rate, they hardly ought to have said 'may,' where the proper word would have been 'can not.' However, as an historical fact, the bishops of the ancient Church knew nothing about 'may not,' and 'can not' in any case where their duty both to herself and to her Divine Lord and Head called them 'to be gathered together.' In some way or other, *they* always did meet in council whensoever necessity obliged.

Undoubtedly, the present emergency [or any conceivable emergency] may not seem to be a case of necessity, in the judgment of your bishops. That is another question. But to talk of imprisonments and violent persecution in these days, as a possible consequence, is almost absurd. Will any one pretend that the English convocation *could* not, as a matter of possibility, meet together, and settle disputed doctrines and pass new canons and articles, even if the crown refused its consent? Is it literally true that its members would be forcibly prevented, and that there is no place to be named where they *could* assemble? And would their deliberations be treated with contempt and opposition by the Church and people of the land?—One begins to entertain the suggestion which some have made, that the restraint upon the conscience of convocation, is the restraint of endowments.

The actual exercise of the royal supremacy, now

[1850] as some have said, for the first time brought in operation before us all in a matter which touches upon doctrine, is a very startling fact. Grant, for a moment, that it is the first time: still, in theory it has existed, and has been known to be a distinctive principle and part of the system of the church of England for the last three hundred years. Men may have managed to forget it; but it has all along been a living, real, power; waiting its time, if we may so say; ready to interfere, or, rather, ready to exercise the authority which the reformed Church declares to be inherent in the sovereign. It is mere accident that the same or some similar matter did not come before the ecclesiastical court, and, in appeal, before the supreme governor of the Church, forty years ago, or in the last century, or in the reign of queen Elizabeth herself.

It is rash to attempt to conjecture why, in the dispensations of the Divine Providence, it seemed good that so long a series of years should elapse, and that this authority, as regards the settlement of doctrine or anything like doctrine, should remain as it were dormant; yet we may discover in the spiritual apathy and ignorance of the last century, and in the increased learning, zeal, and piety of both clergy and laity of the present generation, some reasons why all this should not have happened *then*, but should happen *now*. Even such a doctrine as the unconditional efficacy of infant baptism, so vital, so evidently at the root and foundation of all Catholic teaching, might have been determined a hundred years ago, as not

held exclusively by the English church; and the determination might have been acquiesced in as a thing indifferent, or, at least, of inferior importance.

It has been said that the evidences of life and energy and holier practice, so remarkably shown by the church of England during the present generation, are evidences also that she undeniably is, as she claims to be, a true portion of the One, Holy, Catholic, Church. We may not rest on this argument, in any sort, as conclusive. Evidences they may indeed be, as I believe they are, of the working of the Divine Spirit among the people of the land, and of an awakening of the mind both of the reformed church and nation to the reality of their position in the sight of God. They are indeed tokens supplying hope and comfort in times of trial and difficulty and doubt, but they are not sure proofs of the Church's catholicity. Whatever it may be now, few will care to dispute the apathy and almost lifelessness of the English church during the last century: and, as in the natural body there can be no feeling in a senseless state, or in a mortified limb, so is it also in a spiritual body. Breath and circulation are required in the one, as they are in the other: and you must rouse, in like manner, a sleeping person, before you can make him understand.

But the cause between Mr. Gorham and the bishop of Exeter is not the first which, involving very important doctrine, has been decided by the judicial committee of the privy council, in appeal from the court of Arches. In the year 1842, Lord Brougham

gave judgment in the case of Escott against Mastin: and by that judgment it was finally determined that the established church of England recognises and allows the validity of lay-baptism. No one will deny that this was an intricate enquiry: one, which had been controverted during the last two hundred years by learned divines on both sides: one, which, no less than the doctrine of regeneration, was mixed up with and depended upon very subtle questions and principles of theology. It matters not whether it was decided by the judicial committee rightly or wrongly: the point is, that it was so decided: and there neither has been nor could be any appeal whatsoever from that decision. It would be ridiculous, moreover, to pretend that the question is any longer really open to dispute, whether the church of England recognises or disallows the validity of lay-baptism.

And it is no slight matter that the present case of Mr. Gorham is not the first cause which has come in appeal before the judicial committee, involving doctrine. 'The first time,' as an argument, whatever its value, cannot be urged against submission to the jurisdiction of the court. Nor is this (to my own mind) altogether to be set aside as simply accidental: it may have been thus ordered by Him, Who, ruling over all things, especially directs every matter tending towards the acknowledging of the One True Church.

The terms of the judgment of the supreme court, in the case of Escott v. Mastin, need not be examined now. It is only right to remind you that the 'inconsistency or even absurdity' of some supposed

consequences following from a refusal to admit lay-baptism to be valid,—which consequences could not possibly have had any weight whatever in the determination of such a question before a spiritual court, that is, before a court composed of theologians,—was advanced as a supplementary reason for the decision. And, more than this, an argument was based upon expediency: it being said by the court that if lay-baptism should be held to be invalid, all dissenters would be excluded from the pale of the Church, and all foreigners who have been baptized otherwise than by ministers of episcopal ordination. These particulars are worth stating, because they are tokens of the kind of foundation on which the judgments in modern times of this court—judgments, be it remembered, from which there is no appeal—will probably be based.

But it may be further asked, How is it, although this case may not be the first of its kind, yet that the supremacy should now be made so great a difficulty? Are not the statutes, and the articles, and the oath, exactly as they have been for many years? Perhaps the following suggestion will account for this: namely, that it is a characteristic of the people of England to put off difficulties and doubts as long as they can: nor will they entertain them, upon matters carrying also probably a change of practice, whether secular or spiritual, whilst they can be avoided. Hence it may be that the supremacy has been regarded as a theory, and a thing to be talked about, rather than as a reality, which was likely at any time

to be called into energy and life and power, in deciding doctrines of the Christian Faith. For myself, I am ready to acknowledge [1850]—and others have already owned the same—that the royal supremacy, whatever it seemed a year ago, has proved to be, in its actual exercise, something very different from old notions and anticipations: raising unforeseen scruples of conscience, and giving additional weight to other doubts which had been growing and accumulating. The supremacy, looked at from a distance, and through the obscurity of improbable contingencies, was scarcely more than an empty name. True, if one had but considered, there were already frequent acts of the State prominent enough,—interference by the parliament, suppression of sees, and the like,—which ought to have been fairly dealt with. But it was not so: and we required the visible fact of six lawyers—not all believed to be in communion with the Establishment—sitting round a table, listening to arguments founded upon most difficult questions of theology, and commissioned to declare whether it be necessary for a part of Christ's Holy Church to condemn, as heresy, the denial of the truth of baptismal regeneration.

I wish now to return to a point already briefly noticed: namely, the importance of the particular case of Mr. Gorham. This has always seemed to me to be much underrated by many who are of the high-church party. Many would not acknowledge—probably many still do not acknowledge—that, if the case should be determined in his favour, they would

literally and undeniably have no dogmatic teaching left at all upon the sacraments; and, indeed, little else, except perhaps, to some extent, upon the very deep and solemn Mystery of the Ever-blessed Trinity.[1] If there *is* any doctrine, we were accustomed to say, which is clearly and positively taught in our formularies, it is the doctrine of baptismal regeneration: and a judgment in favour of Mr. Gorham would tell us that even that doctrine is not so certain, but that it may be denied and disbelieved. Together with it, by a necessary consequence, the Catholic doctrine of sacramental grace would be also rejected, as not to be thought exclusively the truth.

[1] In the words here, 'the mystery of the Ever-blessed Trinity,' let me be understood as including other doctrines strictly and necessarily following upon the acceptance of that truth, as it is declared in the Apostles', the Nicene, and the Athanasian creeds. Such, for example, as the doctrine of the Incarnation; whilst, upon the other hand, one would scarcely go on to say, the doctrine of the Atonement. Indeed, remembering some books by very learned prelates of our own days, we hesitate almost to assert that Sabellianism and Socinianism are of necessity excluded by the mere acceptance, in words, of the three creeds. And if the Catholic doctrine of baptismal regeneration is not to be proved by the clause of the Nicene creed, 'One baptism for the remission of sins,' together with the ritual, I know not whether the doctrine of the Ever-blessed Trinity would be more likely to be proved by the creeds, together with the articles.

[I leave the above note and the passage in the text as written in 1850. Since that time the Judicial Committee has decided that clergymen may impugn the Divine Inspiration of portions of the Holy Scriptures, and that the eternity of the final punishment of the wicked, as it seems to be plainly laid down in the creeds, is consistent with teaching that those condemned in the day of judgment may ultimately be pardoned.]

That which I have just said—and to this point let me request your especial attention—was readily enough consented to and indeed loudly insisted on by the high-church party in former years. Who is there that does not remember how frequent the complaints were against the bishops, for not proceeding against clergymen who denied regeneration in holy baptism: how confident the expectation was that the result must be against the low-church or evangelical party: how bold were the assurances that continuance in ministrations and office depended upon a right decision of the question? We are now [1850] about to listen to the long-expected, long-wished-for, judgment. Let us not presuppose what course any man may take, who, years ago, did not hesitate to speak after that manner. Only this must be said: that although disappointed men are justly entitled to reconsider the whole matter, yet, in cases of conscience, the course of conduct which, beforehand, seemed to be the right one, is more likely to be correct and according to sound religious principle, than another decided on when the pressure of the actual difficulties is upon them, and the temptations of the world, of position, of influence, and the like.

The arguments by which the refusal to acknowledge the importance of the case have lately been supported, are sufficiently different; some would place it on this ground, some upon that; these being unlike and even contradictory in principle. Two alone among them need be mentioned. One, which refused to recognize the right of the crown to interfere at all

in such a question, and therefore the right also of the judicial committee to decide it. This has been already considered. The other demands a few words, when I remember that it has been privately urged upon me most forcibly by one whose opinion is of great authority, and to whom few would not readily, if possible, defer.[1]

It is said; whatever the judgment of the court of appeal may be,—whether to the effect that baptismal regeneration is held and taught exclusively by the Church of England, or that it is not held exclusively, —that the Church's doctrine remains exactly what it was before; and that every clergyman will be entitled and authorized to teach, and every layman will be equally called upon to believe, that the Established church both teaches, as of old, the doctrine of baptismal regeneration to be certainly true, and asserts the denial of it to be undoubted heresy. In support of this it is argued that the decision of a court in a single litigated case cannot alter the doctrine of the Church: and that her formularies and canons remain precisely what they were before, in their strict and positive meaning. And, further, that nothing less than a new canon or article, put forth by the Church herself, would be sufficient to change her previous teaching upon this or any other matter. So that as long as a clergyman can say, 'Do not trouble me with your decisions of a court, but show me a new canon or article,' he is entitled to continue both to hold and to teach precisely what he did before.

[1] [A Judge in one of her Majesty's Common Law courts.]

The case, however, of Mr. Gorham being simply of construction, and of the right interpretation to be put upon certain documents already existing, is one which ought to be brought before a judicial, and not a legislative, body. The documents themselves, to all outward and visible appearance, will remain exactly what they were: there will be no words added, and none removed: but they will have had a legal meaning put upon them by an authority to which reference, on a material and disputed point, has been solemnly and properly made.

In times past it might have been answered to a person enquiring the meaning of our formularies, on the subject of holy baptism, 'It is certain that they exclude the denial of the unconditional efficacy, in all cases, of infant baptism.' Can it be so said hereafter, if the judicial committee decide that they do not exclude it? Documents and formularies of any kind whatsoever are but so many words, unless their meaning is to be ascertained by some acknowledged rule, or determined from time to time by a sufficient authority.

In short, shall we not find that this argument resolves itself, after all, into the original question of the authority of the court itself, and of the obedience which the clergy, especially, are bound to pay to it? It is confessed that although the decision in this matter—one litigated case—need not, nay ought not, to influence the future teaching of any minister of the established church, yet that a canon would be imperative and binding: even, I suppose, if the canon

merely said, that a clergyman denying the unconditional efficacy of infant baptism is not an unfit person to be instituted to a benefice. Therefore, that weight and authority which are allowed to a canon, are to be refused to the decision of a court. No doubt this court, nor any other court, cannot make canons: but, as has been before said, this is a question not of new canons and formularies, but of the right construction of old ones. Now, in such a cause, either the court of the judicial committee has authority or it has not: we will not speak of lower courts—*that* may be a different question—but we will speak of that court only with which our present business is concerned; the highest and supreme, from which there is no appeal. If then the decision of the court is to be listened to at all, it is not easy to discover how one will be able to draw distinctions, and place limitations upon the extent to which it reaches. There seems to be no middle way between accepting and acting upon it, and repudiating it altogether as if it had never existed. I mean, repudiating it in every other respect than in the one point, comparatively unimportant and trivial, of the institution of a certain person to a certain benefice.

Now, in the first place, it is quite evident that any one who shall determine to despise and make nothing of such a decision, as regards his future faith, teaching, and practice, will have to bear the responsibility—to my mind a very awful responsibility—of setting up his own individual opinion against the judgment of a lawful court, to which the church of England, through

the sovereign, has committed the final decision in all causes ecclesiastical, and to which decision by a silent acquiescence she shows herself willing to consent. It is true that he may find many who will agree with himself in taking such a course: but this will not, and cannot, remove his personal responsibility.

Possibly, more than this. Even supposing that the present supreme court has no authority, derived from the reformed Church, strictly binding on conscience—in other words, that there are methods and subtleties by which one may perhaps escape from obeying or consenting to its decisions,—yet the judgment of six such eminent persons,[1] so learned, patient, impartial, and desirous to be just, in a matter of interpretation and construction of certain documents, laid before them and diligently examined according to the separate views of the two litigant parties, must be a fact which you are imperatively called upon not to set aside, even as regards the merits of the subject itself, without the very gravest and careful deliberation.

And, secondly, let us think upon the practical consequences. If the decision of the court should be distinctly in confirmation of the judgment of Sir H. Jenner Fust, then, on the supposition of the argument against which I am objecting, Mr. Gorham would be himself fully and entirely justified in continuing to

[1] [These, in the Gorham case, were Lord Langdale, Lord Campbell, Sir James Parke, Dr. Lushington, Sir J. Knight Bruce, and Mr. Pemberton Leigh; assisted by the two archbishops and the bishop of London.]

teach, in his present parish, the unsound doctrine for which his bishop and the two courts to which he has appealed have condemned him. He will be justified in saying, 'This is a decision affecting only the one litigated point of institution to a particular benefice; I think the decision was a wrong one; and, at any rate, the formularies remain exactly what they were before. A single decision in a litigated case cannot affect their former meaning: and I am as convinced as I was before that, rightly interpreted, they do not exclude the view which I take of the doctrine of baptismal regeneration.' Again, in like manner, the bishops would be left at the same liberty as before to exercise their private opinions on this matter: and if so, with a decision of the supreme court existing, it would in fact be placing in their hands a new and strange power. For example, a patron who should desire to nominate an evangelical clergyman to a vacant benefice, would be restricted to those dioceses in which the bishops refuse to act upon, and make light of, the authority of the court. Once more: let us suppose that the decision will be in favour of Mr. Gorham: how would it affect those who have been accustomed to teach the Catholic doctrine as not only true, but exclusively the doctrine taught by the church of England? will they be justified in saying, as they now say, 'The church of England holds the doctrine of the unconditional efficacy of infant baptism to be certainly and exclusively the truth; and the denial of it to be a pernicious and deadly heresy?' I own that as I look upon the matter now, it would

be difficult indeed to use such words. To say less would be to give up an essential doctrine of the Christian Faith.

Here, I conclude. Yet, taking this—the earliest—opportunity of protesting against the new final court of Appeal which has been lately proposed in a bill now before the House of Lords.[1] It is strange that people have not yet discovered that so far as consciences are grieved by it, it is not only—no, nor chiefly—the character, the qualifications, or the position of the individuals who may compose the supreme court, which need make one anxious, but the source from whence the court derives its jurisdiction. The one is matter of detail, the other touches the foundation of the whole. Nor can this be remedied, if the reformed church of England consents to be in bondage to the State, and fears to claim the right which belongs to every part of the One Catholic Church, of deciding all spiritual causes involving doctrine, before her own tribunals, from the lowest to the highest, acting in her name and by her appointment. The real question, let me repeat it, turns upon the source from whence the jurisdiction and power of the supreme court are derived. For fifteen hundred years the Church of England owned no courts, before which spiritual causes involving doctrine could be brought, whose judges had not received their authority to decide such matters, by immediate delegation from herself. But the practice of the reformed church for

[1] [I forget what this was: but the particular proposal is not worth the trouble now of hunting up.]

the last three centuries has been to demand of her ministers submission to the jurisdiction of courts deriving their authority from the State, and to acknowledge the Queen's majesty to be supreme in all causes as well ecclesiastical as temporal. And no arrangements whatsoever, however specious and fair looking, can be satisfactory, or may avail to relieve you of the burthen under which you lie, so long as the present oath of supremacy remains a part of your Ordinal, and you are called upon to subscribe the 37th article, and the first of the three articles of the 36th canon.

* * * * *

Another subject still remains [more fatal to the claims of the reformed church of England to be considered 'pure and apostolical;'] and I purpose to enter upon it in a Letter, which will be published as soon as the judgment of the court of appeal has been delivered.

Ever, your sincere friend,

W. M.

THE SECOND LETTER.

THE WANT OF DOGMATIC TEACHING IN THE REFORMED ENGLISH CHURCH.

April 1850.

My dear Friend,

You need not be told with what reluctance I feel myself, at last, compelled to approach the second subject upon which, in my former letter, I proposed to write to you. When these letters were commenced, now nearly four months ago, it seemed very probable that they would, both of them, have been published long before the present time. But the unexpected delay in the delivery of the late decision of the judicial committee of the privy council in the case of Mr. Gorham, has necessarily obliged me to defer the publication of this second letter.

* * * * *

The existence and recognition of the Royal Supremacy is not the only difficulty and cause of doubt which you are bound, if possible, to remove, before you can establish the sufficiency of the claims of the reformed church of England upon your obedience and

faith. In my former letter, I have endeavoured to show in what that supremacy, in its exercise of the power of finally determining spiritual causes involving doctrine, must be acknowledged to consist: and to show, also, the extent to which the English church has accepted and upheld that power. But I have not given you any ground to suppose that it is the only difficulty in which, as holding what have been called high-church opinions, you must own yourself to be. And the same may be said of the permitted denial of the Catholic doctrine of baptismal regeneration. I do not mean that the existence of these, together or separately, would not be sufficient to excite grave and anxious doubts, but that they are not your only, and not, indeed, your chief difficulties. To pretend that they are not grievous and weighty would be absurd, now, especially, that the archbishops of York and Canterbury—the two primates of the church of England—have given their sanction to both of them: to the exercise of the supremacy in finally determining causes of doctrine, by their presence at the deliberations of the judicial committee, and by their approval of its Report to the queen in council; and to the permitted denial of the truth of baptismal regeneration, the one by his charge in the autumn of last year [1849], and the other, in a very marked and decided and honest way, by the preface to a new edition of his book on apostolical preaching.

* * * * *

Pardon so much that has been now said of myself. Let us proceed, without further preface, to the par-

ticular subject of this Letter: namely, the want of necessary dogmatic teaching in the church of England since the reformation. Great part of what I am about to write, springs out of and is connected with the cause of Mr. Gorham against the bishop of Exeter.

On one account, as the case went on, it seemed not improbable that the appeal would be decided in favour of Mr. Gorham. First in the court of Arches and afterwards before the Privy Council, it was impossible not to feel, more and more, that the reasons and arguments of the evangelical party had been too lightly esteemed. During the previous two years, my attention had been constantly directed in other ways to the same matter, and, it must as fairly be confessed, with similar results. Few high-churchmen would dispute the absolute necessity of rejecting Mr. Gorham, after such answers as he gave in his examination before the bishop; yet every month, as it went by, suggested graver and graver doubts as to the final success of such a proceeding, unavoidable as it was. I mean, doubts whether a bishop is really following the intention of the reformed church of England, and speaking in her spirit, when he condemns as heresy the denial of the unconditional efficacy of baptism in the case of all infant recipients.

My object is not to discuss Mr. Gorham's especial doctrines: it is a substitution of the real question in dispute between the two great parties in the established church to attempt to heal their differences by obtaining some kind of repudiation of his particular mode of interpreting the articles and the ritual. The

real question,—and no man who loves the truth will seek to evade it,—is this, namely; Does the reformed church of England teach exclusively the unconditional efficacy of infant baptism?

After the arguments on both sides were ended before the judicial committee, we were all enabled calmly to consider what the result of the whole had been. For myself, I felt with anxiety and disappointment, that the growing impressions and doubts of the preceding six or eight months had been strengthened rather than relieved. And it was impossible not to own that there could be little hope of further satisfaction to be gained in any way, if the speech of Mr. Badeley, in behalf of the bishop, had failed to give it. That speech was one, which ever must remain a record of all that deep research and eloquence could effect on behalf of the church of England. Speaking as a lawyer, the present Lord chief justice [Campbell] of the court of Queen's Bench declared, that he had never heard any argument more learned and more able: and it is equally well known, that the clergy who believe Mr. Gorham's doctrine to be unsound, speak, as theologians, in like manner, of Mr. Badeley's argument, in unqualified language of admiration.

When Mr. Gorham was refused institution, more than two years ago, I thought that it was almost impossible for him to raise a reasonable question as to the exact teaching of the English church upon baptismal regeneration: a question, that is, such as a court would entertain. But time went on, and the real state of things and tone of doctrine which pre-

vailed for fifty or sixty years after the reign of Henry the eighth (during which the first movers of the changes in religion or their immediate disciples still lived), opened, and became clearer from day to day.

It would be dishonest to attempt to exaggerate or put an untrue face upon the real state of the matter. Let me not be misunderstood in what I am now saying. I mean it to apply only to the earlier reformation: for it has been said, and in some sense truly said, that the English reformation did in fact take place—rather, I suppose, it arrived at its mature and completed form—in 1662, and not in 1552 or 1562. Therefore, in all that regards baptism, it is to be carefully remembered on the one hand, that the opinions of the bishops at the Savoy conference are not merely equal with, but of greater weight than any opinions of the reformers of Edward's days, or queen Elizabeth's: on the other hand, there is the fact that the 39 articles were framed in 1552 and 1562.

It is small disgrace perhaps even now—certainly a few years ago it was so—not to be well read in the almost forgotten books of Grindal, Fulke, Whitgift, Jewell, and their contemporaries. To be acquainted with Hooker's work of the ecclesiastical polity had become rather a fashion: but, with that solitary exception, we must acknowledge that the divines of the days of queen Elizabeth were little read and little valued by the party calling itself Anglo-catholic and high-church and the like. Still, from circumstances, I had examined one part of the literature of that age somewhat carefully, namely,

the famous controversy of Cartwright and his friends under the name of Martin Marprelate: and, in other respects, I think that I may claim to have known about as much as people commonly do of the theological books of the sixteenth and seventeenth centuries.

This knowledge must have been loose and indefinite enough, for I was not prepared to learn, as I have learnt, that perhaps without two exceptions all the divines, bishops and archbishops, doctors and professors, of the Elizabethan age—the age, be it remembered, of the present common prayer book in its chief particulars, and of the book of homilies, and of the 39 articles—held and taught doctrines inconsistent (I write advisedly) with the true doctrine of baptism.[1]

There are two causes to which such a misapprehension of fact, so far as regards myself, may perhaps be traced: and others must decide whether these or some similar reasons will serve to account for their own previous opinions about the orthodoxy of theologians of the Elizabethan age.

First; people have been accustomed both to read and to refer to their books, under the impression of long-established prejudices: under the impression that they *must* have been sound divines, because they

[1] In order to prevent misapprehension, it must be explained that I mean their doctrines of sacramental grace, and justification, and not of predestination; which, as all admit, was largely, nay, almost universally, held by the Elizabethan divines, in a very rigid and definite sense. Predestination, as taught by S. Augustine, is not, alone, inconsistent with the acceptance of the truth of the unconditional regeneration of all infants in holy baptism.

were the chief leaders and earliest children of the reformation; and because they had arguments, plenty and specious enough, against some of the doctrines and discipline of the church of Rome.

Secondly; their writings have been known, chiefly, by means of catenæ: a means very likely indeed to lead to false conclusions, because whilst it professes to give fairly the judgment of those appealed to in the matter under dispute, it often does not, and in some cases cannot, in reality do anything of the kind. There are more doctrines than one—for example, this doctrine of holy baptism—upon which writers may make very strong and catholic statements in one book, or in one part of a book, which are all explained away, or in various degrees qualified, or even, in truth, contradicted, by different statements in the same or in other books. Catenæ are useful enough, within their proper and reasonable limits; they create difficulties sometimes, whilst they will very seldom suffice to establish a conclusion: employed, however, as they have been, of late years, by the high-church party, they are not merely a packed jury, but a jury permitted to speak only half their mind. In short, the value of catenæ can be only justly estimated, where there is also a living Church, ever prepared to speak with an infallible voice.

Nor is it to be forgotten that whilst many extracts from the Elizabethan books were produced, explaining in a sense inconsistent with Catholic truth the doctrine of baptismal regeneration, on the other hand there were no passages to be found, distinctly

asserting that the reformed church of England holds exclusively the sacramental efficacy of baptism in the case of all infant recipients. It is one thing for a religious community to allow its ministers to hold and to teach a particular doctrine; it is quite another that they should be enjoined to teach it, as being certainly and exclusively true. There are some parts of the books of the Elizabethan writers, which are examples of the first of these positions, namely, the permission: but I do not remember any example of the second: on the contrary, numberless proofs that it could scarcely have been intended. It may rather be a question whether, in the days of queen Elizabeth, a clergyman would not have been liable to censure, who, not content with being suffered to teach what he himself believed with regard to the doctrine of baptismal regeneration, should have gone on further to declare that the church of England still pronounced those to be unsound and heretical, who did not acknowledge the unconditional efficacy of infant baptism. Or, to put it in other words, if such an one had further declared that the teaching of the church of Rome and of the reformed church of England, upon the sacrament of baptism, was necessarily to be understood and accepted, by all English clergy, as identical and the same.

Therefore, the additional argument produced by Mr. Gorham's advocate in his speech before the committee, based upon a comparison between the articles of 1536, and the articles of 1552 and 1562, was forcible and correct. It supplied a cause of one effect of the alteration of the documents and formularies of the

English church, which was so visibly and frequently to be observed, in the language used by men, contemporaries or nearly so, respecting the sacrament of holy baptism. And the principle involved in the following sentence of the judgment delivered by the judicial committee cannot be disputed: they say; '—it appears that opinions, which we cannot in any important particular distinguish from those entertained by Mr. Gorham, have been propounded and maintained without censure or reproach, by many eminent and illustrious prelates and divines who have adorned the church from the time when the [42 and 39] articles were first established. We do not affirm that the doctrines and opinions of Jewell, Hooker, Usher, Jeremy Taylor, Whitgift, Pearson, Carlton, Prideaux, and many others, can be received as evidence of the doctrine of the church of England; but their conduct unblamed and unquestioned as it was, proves at least the liberty which has been allowed in maintaining such doctrine.'

Speak of it as one would, or regarded under every possible aspect, the proved opinions of the Elizabethan writers were entitled as an argument to the very greatest weight. The fact, to such an extent, was unexpected, but it was to be considered and to be dealt with whether it were important or unimportant. It showed, at least, that there were in that day many individuals of greater or less learning, of higher or lower station, who did not believe that they were bound by the apparently plain language about regeneration in the reformed ritual, to hold and to teach the

unconditional efficacy of the sacrament of holy baptism in the case of all infants. Nor was it only the opinion of private individuals. And I am now [1850] about to mention a remarkable fact, which was not brought forward in the late arguments.

The point at issue was, whether it is necessarily inconsistent with the assertions of certain parts of the English formularies to deny the unconditional efficacy of infant baptism: or in other words, whether the doctrine, that some infants do not receive in baptism the saving grace of regeneration, is excluded by the terms of the ritual and catechism.

A short time ago, it happened that I was obliged, for another purpose, to refer to the Dublin articles of 1615.[1] In that year, the prayer-book and catechism of the reformed Irish church were identical, in all

[1] It was late in the autumn of the preceding year (1849) that, in writing a review of a book, I had occasion to consider carefully the Dublin articles. So far as I can remember, those articles gave the first shock—one never recovered from—to my belief in the claims of the reformed church of England as a true church. This, not because alone of the doctrines advanced in the Dublin articles, but because (as more fully stated above) they proved beyond dispute, that the seemingly strong and precise language of the Common Prayer Book did not really oblige the acceptance of Catholic doctrine to the exclusion of opposite heresies.

At the request of one who was in every way entitled to make it, I promised not to mention the consequences of those statements in the Dublin articles, as they struck me, until after the decision of the Judicial Committee had been given upon the appeal in Mr. Gorham's case. Nothing was said about them by Mr. Gorham's counsel: I believe that it was a matter which they either did not know, or it did not occur to them. But I thought then—and I think so now—that, as an argument, the Dublin articles alone and simply would have settled the question before the court.—1869.

that relates to the sacrament of baptism, with your own. There were the same sentences, 'Seeing now, that this child is regenerate;' and 'We yield Thee hearty thanks, most merciful Father, that it hath pleased Thee to regenerate this infant;' and others which have been so often quoted. Yet the whole body of the clergy of the established church of Ireland. assembled in convocation, did not hesitate to declare, notwithstanding, as follows: 'A true lively justifying faith, and the sanctifying Spirit of God, is not extinguished, nor vanisheth away in *the regenerate*, either finally or totally.' I do assert that such a statement, whether it may or may not seem to be against the meaning of the words of the public offices of the Church, is utterly and distinctly irreconcilable with the catholic truth of the unconditional efficacy of infant baptism. Nor is it to be answered that this place in the Irish articles means nothing more than the famous Lambeth articles. For although the Lambeth articles were incorporated into those agreed upon at Dublin, and especially marked by references in the margin of the editions printed at the time, yet, in this instance, there is a material alteration; the Lambeth form says, 'non evanescit *in electis*;' the Dublin articles change this into '*the regenerate.*'

To put this argument in another shape: and it may be best to do so, in the way in which it affected and influenced myself. Some months ago, the language of the ritual seemed to be an unanswerable evidence of the intention of the reformed English church to teach, exclusively, the truth of regeneration in holy baptism.

brought before the notice of the Church, cannot be left to be settled by an interpretation of terms used in very ancient public services, but must be decided either the one way or the other, or evidently left open, in some concurrent formulary of equal authority. Thus, whilst (for example) the Articles of 1536, and the King's book, and the Bishops' book, were in force, there could be no question made about the doctrine of the English church, regarding baptism. But a very different state of things was pro-

that onely auayleth in the sight of God, the new generation,—the earnest of everlastyng lyfe, and title whereby we chalenge our inheritance.' This inward baptism having been just before declared to be, 'to loue the law, and to long for the life to come.' *Expos. of 5th ch. of S. Matt. prol. p.* 187.

So, also, John Frith: 'This outward signe [baptism] doth neither geue us the spirite of God, neither yet grace that is the favour of God. Baptisme bringeth not grace, but doth testifie unto the congregation that he which is baptised had such grace geuen hym before; it is a sacrament, that is, a signe of an holy thyng, euen a token of the grace and free mercy whiche was before geuen hym.' *A declaration of baptisme, p.* 91.

Soon after, bishop Hooper: 'Baptism sanctifieth no man:—external baptism is but an inauguration or external consecration of those, that first believed and were cleansed of their sin.' Again, he says, that the interrogatories and answers of sponsors in public and solemn baptism, show that baptism is but 'the confirmation of Christ's promises, which be in the person that receiveth the sacrament before, or else these external signs availeth nothing:' those answers being made, 'then is the child christened in the name of God. The which fact doth openly confirm the remission of sin, received before by faith.' *A declaration of Christ and His Office, ch.* 10.

Therefore, as a fact, the baptismal controversy had been plainly opened, by persons of name and authority, before the convocation of 1562.

duced by the alterations and omissions made first in 1552, and continued in the 39 articles of 1562.

Thus we have the same ritual of the administration of holy baptism—the same, I mean, in points which bear upon the doctrine of regeneration—under three several aspects. Namely; in connection with another formulary distinctly and exclusively teaching the whole Catholic truth, as did the articles of 1536; or, with a formulary which left it open to be received or not, as do the 39 articles of 1562; or, with a formulary which denied and rejected it, as do the Dublin articles of 1615.

But it is not only on the doctrine of the sacrament of baptism that the articles of the reformed Irish church claim your especial attention; and I shall therefore devote to them another page or two.

These Dublin articles of 1615 have never been formally repudiated by the established church of Ireland: and in statements not contrarient, are now, equally with the English 39 (agreed to and approved of about twenty years later), the 'standard of doctrine' in that communion.[1] They contain other

[1] If any man could have proved that the Irish Church is not now answerable for, and bound by, the Dublin articles of 1615, except in so far as they are not distinctly contradicted by the 39 articles of 1562, since received and approved, he would have been the late Dr. Elrington. Nothing can be more convincing than the statements which that writer has been forced to admit, in his life of archbishop Usher: proving that not only were the Irish articles of 1615 *not* disowned and rejected as heretical by the convocation of 1634, but the temper and opinions of the Irish Church at that time to be such, that the chief persons who advocated the reception of our 39 articles, did not dare to permit even a discussion upon the earlier Irish articles, lest they might fail utterly in their attempt.

heretical statements. What are we to think, therefore of *her* position?—Yet, it will be said, the Churches are United; and they must stand or fall together.

I am quite aware that there are technical objections to the fact itself of such an Union between the two Churches; but whatever the force of them may be, the avowed connection of the English with the established Irish church, and the recognition of her in all acts of outward intercourse and communion, will admit no doubt whatever.[1] A distinct denial of the Catholic doctrine of baptism would be sufficient

Bramhall then bishop of Derry was the most earnest and clever among those who endeavoured to induce the Irish convocation to approve the English 39 articles. Bishop Vesey, in his life of Bramhall, gives us some information about this: concerning which I would premise that the 'blow to be feared' was a repeated *confirmation* of the articles of 1615. The bishop of Derry, we are told, replied to an objection against receiving the English articles, and which also urged 'that it was more material to *confirm and strengthen* the articles of 1615,' by arguing that such a course would bring a sort of discredit upon the former synod, *as if it required ratification:* 'by this prudent dressing of the objection he avoided the blow he most feared, and therefore again earnestly pressed the receiving of the English articles, which were at last admitted.' *Elrington's life of Usher*, p. 174. Some further facts which Dr. Elrington mentions, show how great the difficulty was, and that threats even were resorted to, in order to prevent the Irish convocation from deliberately reaffirming the articles of 1615, and obliging them to be received, under pain of excommunication, p. 170.

[1] There are few of the Established clergy now living, who did not acknowledge this Union at an hour, the most solemn, perhaps, of their whole lives: 'Do you think in your heart, that you be truly called, according to the will of our LORD Jesus Christ, and the order of this United Church of England and Ireland, to the order and ministry of Priesthood? *Answer.* I think it.'

to prove an individual to be in heresy: and such a denial has been synodically agreed to by the church of Ireland. And I must say that it is not easy to understand why any one person should be condemned for reasons which we are not equally prepared to press to a like conclusion, in the case of a reformed Church. Perhaps some Irish clergyman will be able to defend his Church from this charge which I have brought deliberately against her. Let him however remember, that he must either prove the formal renunciation of the articles of 1615: or show that the heretical doctrine of those articles has been plainly corrected by some clear statement to the contrary, contained in the 39 articles, since approved of. And the high-church party, on their side, will have to show, how it was that, at the time of their publication, no sign or mark of even disapprobation was made by the church of England.

As to the authority of the Dublin articles, we cannot have better evidence than that of Dr. Bernard, the biographer of archbishop Usher: 'Now whereas' he says 'some have doubted whether they were fully established as the articles of Ireland; I can testify that I have heard him [Usher] say, that in the forenamed year, 1615, he saw them signed by Archbishop Jones, then lord chancellor of Ireland, and speaker of the house of bishops in convocation; signed by the prolocutor of the house of the clergy in their names; and also signed by the then lord deputy Chichester, by order from King James, in his name. And' he proceeds 'whereas some have rashly affirmed that

they were repealed by act of parliament, anno 1634, or recalled by a decree of the synod then, needs no further confutation than the sight of either.'[1]

The canon by which in 1634 the English articles were approved, proves distinctly that no intention existed of annulling the previous articles of 1615. The object aimed at was to show, that according to the judgment of the church of Ireland, the two Churches agreed in doctrine: and in order to this, our 39 articles were admitted to be true. And any person would be very acute, as it seems, who could discover any material *contradiction* between the two confessions of faith: the only difference—and a considerable difference—being, that the Irish articles contained in full, plain, and express terms, a legitimate exposition—it may be, one of many possible expositions—of the doctrine of the English articles.

On so important a question, it is well that we should quote the canon: '1. For the manifestation of our agreement with the church of England in the confession of the same Christian faith, and the doctrine of the sacraments; we do receive and approve the book of articles of religion, agreed upon by the archbishops, and bishops, and the whole clergy in the convocation holden at London in the year of our Lord, 1562, for the avoiding of diversities of opinions, and for the establishing of consent touching true religion. And therefore if any hereafter shall affirm, that any of those articles are in any part superstitious and erroneous, or such as he may not with a good conscience

[1] *cit.* Mant's hist. of the Irish Church, *vol.* 1, *p.* 388.

subscribe unto, let him be excommunicated, and not absolved before he make a public recantation of his error.'

It has been held, says bishop Mant, that the English articles were only received in the sense of, and as they might be expounded by, those of Ireland. And, as they certainly are not contradictory, this seems to be the just and obvious state of the matter. But archbishop Usher, a contemporary, is the best possible witness we can have, on such a question. In a letter to a friend, giving, a few months afterwards, an account of the late convocation, he observes, 'The articles of religion, agreed upon in our former synod, anno 1615, we let stand as they did before. But, for the manifesting of our agreement with the church of England, we have received and approved your articles also, as you may see in the first of our canons.'[1]

Could the Church Catholic, or, might any Church claiming to be a part of the Church Catholic, speak of being 'United' with, or admit to communion, the reformed Irish church, unless a distinct and formal renunciation of the several heresies contained in the Dublin articles of 1615, had previously and solemnly been made?[2]

[1] *cit.* Hist. of Irish Church, *p.* 493.

[2] The case also of the Protestant Episcopal Church in America, sprung from the English, and with which it is (I believe) in full communion, might also be brought forward, if it were requisite. But her differences chiefly consist in declining to insist on certain things, generally supposed to be of very great importance in the Established church, rather than in the plain and avowed acceptance of error. However, as a fact, the English reformed church readily

But as these articles may not be very well known to some of my readers, it may be right to extract one or two of the statements which they contain. 'By His eternal counsel God hath predestinated some unto life, and reprobated some unto death: of both which there is a certain number, known only to God, which can neither be encreased nor diminished.' 'None can come unto Christ, unless it be given unto him, and unless the Father draw him. And all men are not so drawn by the Father, that they may come unto the Son: neither is there such a sufficient measure of grace vouchsafed unto every man, whereby he is enabled to come unto everlasting life. All God's elect are in their time inseparably united unto Christ, by the effectual and vital influence of the Holy Ghost, derived from Him, as from the Head, unto every true member of His mystical body. And being thus made one with Christ, they are truly regenerated, and made partakers of Him and all His benefits.' In the whole of a very long article of justification, not one syllable is said of holy baptism: it begins, 'We are accounted righteous before God, only for the merit of our Lord and Saviour Jesus Christ, applied by faith: and not for our own works or merits. And this righteousness which we so

gives its support and fellowship to another Protestant Church, which does not oblige the acceptance of all the articles of the Apostles' creed; which does not read in her public service, at any time, the Athanasian creed; and which does not require her bishops to give in words to her ministers at their ordination the power of remitting and of retaining sins; in other words, the power of absolution.

receive of GOD's mercy, and Christ's merits, embraced by faith, is taken, accepted, and allowed of GOD, for our perfect and full justification.' And it ends; 'By justifying faith we understand not only the common belief of the articles of Christian religion, and a persuasion of the truth of GOD's word in general; but also a particular application of the gracious promises of the Gospel, to the comfort of our own souls; whereby we lay hold on Christ, with all His benefits, having an earnest trust and confidence in GOD, that He will be merciful unto us for His only Son's sake. So that a true believer may be certain, by the assurance of faith, of the forgiveness of his sins and of his everlasting salvation by Christ. A true lively justifying faith, and the sanctifying Spirit of GOD, is not extinguished, nor vanisheth away in the regenerate, either finally or totally.' 'The Catholic Church, (out of which there is no salvation,)—consisteth of all those, and those alone, which are elected by GOD unto salvation, and regenerated by the power of His Spirit.' 'GOD hath given power to His ministers, not simply to forgive sins, (which prerogative He hath reserved only to Himself,) but in His name to declare and pronounce unto such as truly repent and unfeignedly believe His Holy Gospel, the absolution and forgiveness of sins.' 'Baptism is not only an outward sign of our profession,—but much more a sacrament of our admission into the Church, sealing unto us our new birth (and consequently our justification, adoption, and sanctification) by the communion which we have with Jesus Christ.' 'The Lord's supper is not only a sign of mutual love—but much

more a sacrament of our preservation in the Church, sealing unto us our spiritual nourishment and continual growth in Christ.—In the outward part of the Holy Communion, the body and blood of Christ is in a most lively manner *represented;* [the italics are in the original;] being no otherwise present with the visible elements, than things signified and sealed are present with the signs and seals, that is to say, symbolically and relatively.'

I now ask for your grave consideration of the position of the Established Church of Ireland; and of the effect, as regards the Established Church of England, of long continued fellowship and communion with her. If the reformed church of Ireland be not heretical, according to the judgment of the reformed church of England, let it be shown.[1]

[1] A week or two ago [March, 1850], a series of resolutions was published, signed by some whose names are well known. I quote three of them:—

'5. That, inasmuch as the faith is one, and rests upon one principle of authority, the conscious, deliberate, and wilful abandonment of the essential meaning of an article of the Creed destroys the Divine foundation upon which alone the entire faith is propounded by the Church.

'6. That any portion of the Church which does so abandon the essential meaning of an article of the Creed forfeits not only the Catholic doctrine in that article, but also the office and authority to witness and teach as a member of the universal Church.

'7. That by such conscious, wilful, and deliberate act such portion of the Church becomes formally separated from the Catholic body, and can no longer assure to its members the grace of the sacraments and the remission of sins.'

[I was pressed at the time to sign these resolutions: but, having already determined on my own course, declined. The only one of any note who did sign, now remaining in the Establishment, is Dr. Pusey.—1869.]

We will again pass on to the consideration of the subject to which I particularly proposed to direct your thoughts.

In former years, it never happened to cross my mind, that the foundations of the reformed church of England were less strong or real than the high-church or Anglican party declared them to be. As a system or theory, in its position with respect either to the church of Rome, or to the countless forms and communities of dissent, the modern church of England seemed to be sufficiently according to the words of Holy Scripture and to the traditions of the ancient Church.

If, at any time, in endeavouring to ascertain the truth of some important doctrine, difficulties seemed to arise from various statements in her formularies, these were put aside upon the supposition, that the English church could not mean to deny or dispute the Catholic faith, being herself unquestionably a part of the Catholic Church. And, upon some doctrines, further confirmation was furnished, not by the partial support of one, or two, or three of her earlier writers—such as Andrewes, or Laud, or Mountagu—but, by the concurrent testimony of an overwhelming majority, including Ridley, and Hooker, and Whitgift; Bramhall, Bull, Pearson, and such as they were.

But the last twelvemonth [1850] has changed this much and materially. The case of Mr. Gorham, with its immediate and, if we may say so, its personal points, as well as the very many collateral difficulties

connected with and springing out of it, forced one to enquire somewhat more accurately than before into the exact facts and history and consequences of the reformation. It forced one to prove by somewhat sterner and, it may be, surer tests, the sufficiency of the claims advanced by the Established church.

It scarcely admits of enquiry, whether it be necessary that the Church Catholic, or that every religious body professing to be a portion of the Church Catholic, should lay down dogmatically, as truths, certain statements upon great Christian doctrines. I pass by (for the sake of argument) the two doctrines of the mystery of the Trinity,[1] and of holy baptism. The one is of too sacred and aweful a character to be spoken of, when it may be avoided; the other (we will say) has just been determined, to some extent, by the civil power in its appellate jurisdiction.[2]

Let us *suppose* then that these two doctrines are clearly, fully, and distinctly taught by the reformed church of England. What are the other doctrines which she teaches with like distinctness?

What is her especial doctrine, for example, upon the number of the sacraments,[3] upon the blessings

[1] See my First Letter, note p. 105.

[2] This sentence was written many weeks ago [1850], before any rumour even of the nature of the decision of the judicial committee was abroad, and upon the supposition that it would be distinctly in confirmation of the judgment of the court below. I leave it unaltered, to be corrected as the reader may himself think fit. [And so it is still left, unaltered, now.—1869.]

[3] High-church people are accustomed to speak in rather glowing terms of the dogmatic character of the common prayer book, and of the catechism in particular. Few things are more striking than

and spiritual graces which the sacraments convey, upon the distinctions between one sacrament and another, upon the necessity or advisableness of some of them, or upon their virtue, powers, and efficacy?

the manner in which the first question and answer is made in the second part of the catechism. The question is: 'How many Sacraments hath Christ ordained in His Church?' I suppose the plain answer would be, two; seven; ten; or twenty, as the case may be. For, let it be carefully observed that the question is not concerning sacraments necessary to salvation. And the answer is: 'Two only, as generally necessary to salvation, that is to say, Baptism, and the Supper of the Lord.' Now I do assert, that such an answer evades —neither more nor less—*evades* the question: it is, strictly, no answer at all: it is an answer for which a witness would be justly rebuked in a court of law. However, the catechism (as if glad to escape from a difficulty) accepts the answer, and asks, 'What meanest thou by this word [as used by you] Sacrament?' I say, 'as used by you,' because concerning a sacrament in the catholic and true sense, it is incomplete to say 'I mean an outward and *visible* sign,' *etc.* The more correct word would, in that case, be *sensible* sign. But the word visible may perhaps be right, when referred to two sacraments, 'as generally necessary to salvation.'

I am writing, it must be recollected, for those, who make much of the catechism. Therefore I would suggest two other places of this same second part. Namely; the following question and answer: 'Why then are infants baptized, when by reason of their tender age they cannot perform [repentance and faith]? Because they promise them both by their sureties; which promise, when they come to age, themselves are bound to perform.' What are we to understand by this? And another answer: teaching truth, but not excluding error: 'For the continual remembrance of the sacrifice of the death of Christ,' &c. I allude in this last to the equivocal meaning of the term 'remembrance:' excellent and sufficient in its catholic sense, as so applied to the blessed Eucharist: but most miserably deficient indeed if it is, as certainly (I suppose) it may be, understood in any other and a lower sense. And the difficulty is increased when we recollect, that this word 'remembrance' is to be carried on to the second clause of the sentence, 'and of the benefits which we receive thereby.'

and do they contain, as well as convey, grace? Again, take the sacrament of the Eucharist: what is *the* doctrine which the reformed church of England openly, plainly, and distinctly, teaches about it? does she tell us that it *is* a sacrifice? does she tell us that it is *not* a sacrifice? if a sacrifice, what is the Thing sacrificed? and is it or is it not propitiatory for the living, or for the dead, or for neither? are the elements after the words of consecration bread and wine, as they were before, or are they the Body and the Blood of our Lord? are they both? if only one, which of these are they? ought you, or ought you not, to pay outward honour and reverence to our Blessed Lord, Present upon His altar, after the consecration? Again, take Confirmation: is this a sacrament, or is it not? if a sacrament, what is meant by saying that it has not the like nature of a sacrament with baptism and the Lord's supper? is it a ceremony in which the candidates confirm the vows and promises made for them by others, long before, when they were baptized, or is it an ordinance in which they receive also after a sacramental and mysterious manner, by the laying on of hands, the gift of the Holy Ghost, never in like manner to be again given or received? and is this last the chief, or not the chief, end and object of confirmation? Take, again, Extreme Unction: is this, or is it not, lawful to be received and administered in the church of England?[1] if it be, what are its effects?

[1] I am aware that an argument may be raised on the omission of the ancient office from the revised ritual: and that a clergyman might be punishable for administering Extreme Unction, under his

if it be not, why is it not? is extreme unction 'a corrupt following of the apostles,' or not? if it be, in what sense is it, and confirmation or orders not equally so? Again, take Matrimony: what is the especial teaching of the church of England about this? Again, Orders: is episcopacy essential or not essential to the existence of a Church? can the Eucharist be given in a religious body—for example, in the kirk of Scotland—where there is no pretence of episcopal ordination, in fact, where there are no priests? is there a 'character' given, or not given, in ordination? does a priest at his ordination receive power to remit and to retain sins? and if so, in what sense? Once more, before we pass from sacraments, or what the Catholic Church of England for 1,000 years called sacraments, take Absolution: what does the reformed Church teach about this? is it a sacrament or is it not? is it, or is it not, an ordinance appointed by our Lord to be for ever continued and used in His Church, in order that penitents might through it obtain remission of mortal sin? is previous auricular confession—full, detailed, and particular—necessary, or not necessary, to the grace of forgiveness by means of priestly absolution? do the general public absolutions, pro-

subscription to the 36th canon, in which he promises to use the rites and ceremonies and sacraments, as contained in the Prayer Book, 'and none other.' But this prohibition would include equally all modern offices of consecration of churches: for there is not one law for bishops and another for priests. And if so, a prelate (now living) [1850] would be right, after all, when he mocked at any form of consecration, and walked irreverently into the church, saying, 'It is merely a signing of papers.'

nounced in the daily prayers, convey remission of mortal sin, or do they not? are pardons and penance fond things vainly invented, rather repugnant to the word of God than otherwise, and grown of the 'corrupt following of the apostles'? and, if pardons and penance be not so, in what sense and within what limits are they agreeable with God's word and with the tradition of the apostles? in short, is absolution a power to forgive and to retain sins, inherent in and to be exercised by all priests, or is it a mere word loosely and improperly retained in some of the formularies of the church of England, signifying nothing? if the first of these be too high a way of speaking of it, and the second be too low and mean, what else is it?

This much, then, upon the sacraments. I shall trouble you with one or two more questions only: for, surely, enough has been already said to startle some, who have not hitherto thought upon the matter; but, contented with the liberty of teaching or believing what they please, have further taken for granted that the reformed church of England definitely taught the same.

For example; praying for the dead: is this, or is it not, a pious, lawful, and catholic duty? Is there, or is there not, a purgatory? Is invocation of saints an unlawful practice, contrary to the written word of God? May the sacrament of the Lord's supper be reserved, carried about, lifted up, and worshipped, by authority and custom of the Church, although 'not by Christ's ordinance;' or may It not? In what

sense is Faith 'the mean whereby the Body of Christ is received and eaten in the Supper?' and do they only, who rightly, worthily, and with faith receive the Sacrament, partake of the Body and the Blood of Christ?[1]

No one will deny that these last also, in various degrees, are grave questions, involving and connected with chief truths of Christ's Holy Gospel, and influencing the daily life and practice of the members of His Church.

And I must instance in two more particulars only. First, what does the established church now teach respecting the blessed virgin Mary? Is it wrong—I do not ask, is it *right*, but is it *wrong*—especially to invocate her, or is it not wrong? did the English church at the reformation change at all the doctrines which she taught before the year 1540, regarding Mary, and if so, where are we to find the statement of that change, and to what extent does it reach? ought the acceptance, to which you are obliged, of the Catholic test 'Mother of God' to affect your thought and practice; and, if so, in what way?

Second; the doctrine of Justification: and, on this, with respect to one particular alone. Namely; in what sense is it true 'that we are justified by faith only,' and that it is a most wholesome doctrine, and very full of comfort? is it true in the Roman sense?

[1] [Archdeacon Denison's case, in 1858, was of some importance on this point. Not of much, really: because his doctrine was condemned, not by a civil court, but *merely* by a spiritual court, his own archbishop sitting in person.—1869.]

or in the Lutheran? or in neither? and—not delaying to enquire whether the doctrine of justification by faith only, which seems to be put forth in the homily 'of salvation,' is sound or sufficient – let me further ask, where are we to find 'the homily of justification'?

I again repeat, that all these doctrines, last specified, are of very high importance: some of them not less than the others, beforementioned, connected with the sacraments: indeed, several of them are also so connected. And, at any rate, upon the vital and essential character of one, justification by faith, protestants are agreed. Nevertheless, it is quite at the option of every minister of the reformed Church, to hold and to teach any one of them, according to either of the two or (as the case may be) twenty modes in which he may choose to fancy it: in other words, every one of these great and solemn doctrines is an 'open question;' a mere matter of 'opinion.'

Has the world ever before seen,—does there now exist anywhere—another example of a religious sect or community which does not take one side, or the other, clearly and distinctly, upon at least a very large proportion of the doctrines which we have just been speaking of?

If it shall appear to some, that the examples given are not all to be allowed to be 'open questions,' let them take two only; namely, the doctrines of Justification and of the holy Eucharist. When they can tell us what the teaching of the reformed church of England is regarding these two, we will proceed

[illegible]

[illegible] may object against [illegible] rather more than a [illegible] I allude to my book on the

doctrine of absolution. Let me quote it. 'We declare therefore that the church of England now holds, teaches, and insists upon, all things whether of belief or practice, which she held, taught, and insisted on, before the year 1540, unless she has since that time, plainly, openly, and dogmatically asserted the contrary. This we declare in general. And, in particular, as regards that most important question, the right interpretation of the various services in our common prayer book, we further add: that whatsoever we find handed down from the earlier rituals of the church of England, and neither limited nor extended in its meaning by any subsequent canon or article, must be understood to signify (upon the one hand) fully and entirely all, and (on the other hand) no more than it signified before the revision of the ritual.' *p.* 49.

When that passage was written, it was written in entire assurance that every word might be established. I do not think so, now. [1850.] And, I say this, not because my belief has altered from accepting the fixed principle that all essential Christian truth is one, and eternal; and that every part of the Church Catholic is bound of necessity to hold it whole and undefiled. Believing, as at that time I did, with the strongest confidence and trust, that the church of England was a living and sound portion of the One Holy Catholic Church, I could not but assert, as being capable of undeniable proof, her claims to teach authoritatively and undeniably every single doctrine of the Catholic Faith. If I searched into her foundations, it was with

no shadow of fear lest they should be seen not to be resting on the Rock, but much rather, in the undoubting hope that the more she was tested and examined, the more triumphantly she would declare herself to be Divine.

If the end of long enquiry and consideration has resulted in disappointed hope, and evidence of the fallacy of former expectations; if we are compelled at last to own that the utmost any one may declare is,—not that the church of England now 'holds and teaches,' &c., but—that the church of England now *suffers and permits* to be held and taught: and again, as to the right interpretation of the prayer book, not '*must* be understood,' but, '*may* be understood:' let none suppose that the ground has been lightly yielded upon which, alone, a minister of the established church, claiming to be a minister of the Church Catholic, can stand securely.

I would say here one or two words more, upon Confirmation. It is remarkable that in the catechism, to be learned of every child before confirmation, there is not one word said concerning it. Neither to tell us what it is, nor what it is not. If we go to the homilies—not that their every sentence is of authority—we find but little there. The index of the late Oxford university edition has one reference, under this head; 'Confirmation, not a sacrament.' As if the faith of the reformed English church, about sacraments and sacramental grace, consists of negations. Turning, however, to the place, we read nothing which can give us any exalted notion of

its great benefit and necessity, but rather otherwise.

And having spoken above of the acts done in 1662, it is remarkable (to say the least) that the long preface and promise by the candidates were then added. Until that time, with the exception of some ceremonies, the office stood much as it had been in the ancient books. And it certainly must have been a more solemn service. There was in it nothing which could have led to the low and miserable notion, now so prevalent amongst you, that candidates go to 'confirm themselves:' to make their promise, by their own word of mouth; to take on themselves—as if unobliged before—the vows made for them, at baptism. We cannot wonder at the scandals and irreverence so often shown in parish churches at confirmations.

Among all the things done by the English bishops and convocations since the reformation, I know nothing so unaccountable, as this addition made in 1662 to the office of confirmation. We are told that the Savoy conference[1] most clearly proves that the catholic doc-

[1] It is not to be forgotten that there were some long rubrics, in the Prayer Books of 1549, and the intermediate Books till 1662, prefixed to the catechism and order of confirmation, in which there are assertions of the propriety of persons ratifying in after life the promises made for them by others at their baptism. There can be no doubt that all this is right, properly understood: and it scarcely could be misunderstood, so long as this ratifying and 'confirming' of promises formed no part of the office; or, so long as there was also to be found in the same rubrics, the following declaration of the benefit of the ordinance itself. This declaration would have corrected perhaps, in some measure, the effect of the prominence given in 1662 to the renewal and ratification, in a very solemn

trine of holy baptism, was then intended—whatever might have been the case for the preceding hundred years—to be at last declared as *exclusively* the truth according to the teaching of the church of England. Yet at this very period, for the first time in the history of any part of the Christian Church, and of which no example can be found in the ancient rituals, a new tone was given to the office of confirmation: and something very like an authoritative assent was made to the doctrine, that the grace of baptism depends or is suspended upon the personal faith and promise of the recipient, and that confirmation is not a distinct gift of the Holy Ghost, but the completion of the sacrament of baptism. You know well that any sign even of leaning to so unsound a doctrine, is entirely incompatible with a right and full acceptance of the truth of baptismal regeneration. You must consider whether this addition to the office of confirmation positively contradicts the spirit of the replies made by the bishops at the conference: it is, at any rate, unaccountable and strange, supposing—

way, of the baptismal promises, if it had been suffered to remain. But it was at that same time removed. 'Forasmuch as confirmation is ministered to them that be baptized, that, by imposition of hands and prayer, they may receive strength and defence against all temptations to sin, and the assaults of the world and the devil, it is most meet to be ministered when children come to that age that partly by the frailty of their own flesh, partly by the assaults of the world and the devil, they begin to be in danger to fall into sundry kinds of sin.' Why have you not, now, this statement? why have you not something, at any rate, of the same kind? is it too dogmatic? or, is it untrue and tending towards a superstitious regard of confirmation?

as for a long time it was supposed—that they believed the teaching of the church of England and of the church of Rome to be identical upon the sacrament of baptism.[1]

Before I pass altogether from the subject of differences on essential doctrines of the Faith, it must be observed, that there is an objection likely enough to be urged by the evangelical party: namely, that, so far as they are themselves concerned, these differences do not reach, in any degree, to the extent which has been above spoken of. It may be so: nay, in fairness to themselves I must own, it is so. The number and variety of opinions, in reality, begin to exist, after the one characteristic barrier has been passed, which divides the two great sections of the Established church. As a whole, the evangelical party are tolerably unanimous in their judgment upon most of the questions above asserted to be matters 'of opinion;' and they would decide readily to accept con-

[1] Not less unaccountable, perhaps—supposing the Catholic spirit of the convocation and bishops of 1662—is the restoration of the very important statement about the Presence of our Blessed Lord in the Eucharist. This, which first made its appearance in the second Book of king Edward, was rejected by queen Elizabeth in 1559, and might almost have been thought forgotten after an interval of 100 years. Doubtless there are some verbal alterations between the present rubric and that of 1552: but this does not remove the difficulty of discovering the reason of its being replaced at all, upon the principles which people are anxious to attribute to the convocation of 1662. [Would such a course be now recommended or even consented to by the Ritualist party of the present day? If this statement about the Real Presence had never been heard of, since its brief existence in the Book of 1552, would they allow it to be received once more, and from such a source?]

clusions distinctly denying the ancient doctrine of the church of England, held and taught before the reformation, on each and every one of those questions. This is not unimportant: rather, of material weight in such an enquiry as the present. The fact is not to be lightly regarded, that, the two great parties by which the church of England is divided having been distinguished, the further state of conflict and difference of opinion,—scarcely less miserable and fatal than the one great and fundamental difference,—is to be found chiefly, if not entirely, amongst yourselves. It begins with the attempt to bring back Catholic teaching and Catholic faith into the reformed church of England, and into agreement with her articles and prayer book.

There is another point to which I had intended to direct your attention; namely, to the contradictions which appear to exist between the course of teaching which many of your party commonly adopt and the 39 articles, together with an enquiry into the kind of interpretation, and its admissibility, by which such apparent contradictions are avoided. It is, of course, in itself a relief openly to state a mode of interpretation, and to leave to one's rulers to decide by legal proceedings, whether it is, or is not, within the limits of subscription. But I shall now pass this by. Some two or three considerations, however, which may be more briefly discussed, will come within my present purpose.

Scarcely a word need be said of the unbounded (—really there is no other term—) of the unbounded

variety of opinion upon essential and important doctrines of the Faith which exists among the clergy and people of the Established church. It is a fact notorious and undeniable: deplored as an evil by the majority; yet, regarded by not a few as a thing which is to be approved of rather than otherwise, and as evidence that the reformation has given freedom to tender consciences, or to the exercise of a large and charitable liberality. Such a variety of opinion must be a necessary consequence of the numerous doctrines which careful consideration will show have been left 'open' by your Church.

It is very commonly urged that this is owing to the bishops not having attempted, for the last hundred years, to restrain their clergy, and to enforce a greater unanimity of opinion and teaching; in short, to the want of discipline. Indeed it cannot be said that the complaints which have often been brought against the bishops, by persons of both classes of opinion, are all unfounded and untrue. I speak of the bishops as a body, ruling over, guiding, caring for their Church, their clergy, and their people.

* * * * * *

Yet, I must say, it is not quite just to charge the bishops, either of the last century or this, with entire responsibility for the state of confusion now existing; it is not quite just to accuse them of having caused it, solely by their neglect of the proper exercise of ecclesiastical discipline.

If it be true—and I repeat that it is true—that the

English reformation has deliberately left 'open' all those doctrines which have been specified, and other doctrines besides those, it is impossible, from the very nature of the case, but that as wide a variety of opinion should inevitably follow. It may, or it may not, be right that a church should have one faith; but it is certain that there is not, nor can there be, one faith in the reformed church of England.

Nor is it to be forgotten that, taken together, the power of the supreme court of appeal and the number of Christian truths which are allowed to be matters of opinion increase the force of the objections which, under any circumstances, must lie against either the one or the other, separately, of these two great difficulties. They play into one another. If the English reformation had left a clear and distinct form of religious teaching; if it had decidedly explained what the doctrine of the sacraments, or of the Eucharist, &c. really is; if it had not aimed at including, if possible, persons of opposite opinions; if its principle had not been to leave every man to the exercise of his private judgment upon the inspired word of God and the three creeds; then it would not have been so completely within the jurisdiction of the royal supremacy to determine these questions to be 'open,' as they happen from time to time to be brought forward in appeal.

I am ready to admit that the ecclesiastical court first and afterwards the court of appeal, whatever its constitution may be, if called upon to do so, *might* possibly decide some one or two of the particular

or in the Lutheran? or in neither? and—not delaying to enquire whether the doctrine of justification by faith only, which seems to be put forth in the homily 'of salvation,' is sound or sufficient – let me further ask, where are we to find 'the homily of justification'?

I again repeat, that all these doctrines, last specified, are of very high importance: some of them not less than the others, beforementioned, connected with the sacraments: indeed, several of them are also so connected. And, at any rate, upon the vital and essential character of one, justification by faith, protestants are agreed. Nevertheless, it is quite at the option of every minister of the reformed Church, to hold and to teach any one of them, according to either of the two or (as the case may be) twenty modes in which he may choose to fancy it: in other words, every one of these great and solemn doctrines is an 'open question;' a mere matter of 'opinion.'

Has the world ever before seen,—does there now exist anywhere—another example of a religious sect or community which does not take one side, or the other, clearly and distinctly, upon at least a very large proportion of the doctrines which we have just been speaking of?

If it shall appear to some, that the examples given are not all to be allowed to be 'open questions,' let them take two only; namely, the doctrines of Justification and of the holy Eucharist. When they can tell us what the teaching of the reformed church of England is regarding these two, we will proceed

could not have any legitimate bearing upon the particular case then at issue. All such extracts were declared to be mere 'opinions of individuals,' and 'private opinions which must not be taken as authority.' I have already made some remarks upon this matter, in explaining how far it has influenced my own views on the subject. It is not necessary now to dispute the correctness of the principle laid down by the judge of the court of Arches; but there are few, however, who would not readily grant, that we must not run into the other extreme, and despise contemporary interpretation in all cases, and set aside writers (long looked to and esteemed) as wholly to be disregarded. A moment's thought will show you, that it is not the same thing to quote the authority of divines in favour of, and to quote it against, the apparent or primary meaning of disputed parts of formularies. And so far as my present purpose is concerned, this is all which I desire to press upon your consideration.

But the question is, itself, of so much interest and importance, that I should be sorry not to make one or two more observations, in as few words as may be.

In estimating the value of the writings of Elizabethan divines, we must remember one circumstance, which will incline us to listen to them more favourably than we otherwise might, when they seem to speak in opposition to Catholic truth. I mean in those instances, only, where the formularies themselves do not, seemingly, speak also in the same language, or to the same purpose. You must admit

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of opinions put forth as private men and individuals. We cannot tell what modifications of statement might have been made, what renunciations of erroneous teaching, what corrections, what retractations, when these same men came together in a provincial synod. This we know, that when the clergy of the church of England then met in convocation, various private fancies were continually brought before her notice, and as continually rejected, and condemned by the rejection.

You will see that I am desirous to state this matter as favourably for your party as, in justice, I feel one can. And I believe that the catholic feeling and habit of thought, the accurate knowledge of very solemn questions of divinity, the practised acquaintance with the noble and exact theology of the schools, which for some few years in those days still characterized, as a body, the parochial clergy of England, often enabled the lower house of convocation to see through the subtleties by which men, from their studies, tried to mislead the people. But it did not enable them also to withstand, on all occasions, the pressure to which they were exposed: and it is probable that,—still hopeful under Divine Providence for the best, and unable to foresee the sure consequences which we have learnt from the experience of three hundred years,—they were thankful even for so small a gain, as to have succeeded in avoiding, as at that time it seemed, the distinct rejection of essential truths. In short, the opinions of individual writers are of importance, and only then, when it can be

shown that the reformed church of England has favourably accepted the teaching which was offered her; or, that she has deliberately removed statements in her earlier documents and rituals, which, if suffered to remain, would have been in opposition to such new teaching.

With regard to the acceptance and introduction of changes in doctrinal statements and formularies which were consented to by the English convocation in the sixteenth century, let me observe, that although it is always right for men—so far as human foresight will enable them—to judge of the fitness of proposed acts by their probable tendencies, yet such a judgment may be shown to be ill-founded and mistaken, by the results of after experience. Thus we may be, nay we must be necessarily, better judges of the true tendencies of the reformation, as an act, than they could have been who were its contemporaries. Because the consequences of the religious alterations in that age have shown themselves to be, surely and certainly, in one direction, namely, to error of all kinds and confusion, it is not true that therefore men are to be hastily condemned, in that at the beginning of them they expected better things, and at least hoped that no other consequence than good could follow. The wise and prudent among the clergy of England, during the reigns of Henry and Edward, must have regarded the sweeping changes then made in doctrine, worship, and practice, with hearts fainting in them for fear. To speak of their having had confidence in the chief promoters of those changes,

would be to accuse them of putting their trust in evil men, and not in God, and of a deliberate belief that the Divine Blessing would surely rest upon bloodshed, and sacrilege, and impiety, and hypocrisy, and sin. Nor could a reasonable confidence exist, in the very nature of things, at such a period of hasty reformation and almost unchecked liberty and desire of change, except upon some sufficient evidence that the Spirit of God directed all that was being done, whatever might be the character of the instruments He used. Can you say that they received, during their own time, any such evidence? can you say that you can find it in the years which have since gone by? This, at least, you know: that a claim to the assistance of the Holy Ghost, which was put forth solemnly in one of the most important documents of the reign of Edward the sixth, was dropt silently as regarded any words, and distinctly denied as regarded action, within the space of four short years. And, taught by experience, together with a moderation to which we are bound to give due praise, the reformed church of England has never attempted to renew so high a claim.

Let us return to the subject from which we have digressed. It being undenied, that there does exist a vast variety of opinion, it may be distinguished, as regards the clergy, into three classes, represented by the high-church, and by the low-church, and by those (greater in number than you might like to acknowledge) who care very little or nothing about either the one party or the other.

With these last,—who are anxious only that matters may be kept quiet, saying, that things did well enough for their fathers and will continue their own time, that really all this controversy is about words, and is likely to do no good but rather very much harm, that it may tend—lamentable thought—even to a separation of Church and State, and to a difficulty about deaneries and canonries; about tithes, and houses, and glebe, and gardens, and things of that sort;—with these last, I am sure, you do not wish me to trouble myself.

As to the second of the two classes, namely, the low-church or evangelical, I have no hesitation in making a candid avowal. Whatever my opinions may have been some time ago, it is impossible to conceal [1850] that further enquiry has convinced me, that the real spirit and intention of the reformed church of England are shown and carried out and taught by the low-church party, as truly as by yourselves:[1] I hardly like to say 'rather than yourselves;' but that at least they have amply sufficient argument to oblige you to the acknowledgement, that the very utmost which you can claim for your opinions is, that they are 'open' to you. And I would have you very seriously to consider whether you ought to be satisfied with teaching and believing essential doctrines of the Faith to be only *probably* true.

The steps by which I came to this conclusion are

[1] Is there any doctrine on which the two parties differ, upon which you would have the slightest chance of obtaining a sentence against an evangelical clergyman, except the doctrine of Baptism?

clusions distinctly denying the ancient doctrine of the church of England, held and taught before the reformation, on each and every one of those questions. This is not unimportant: rather, of material weight in such an enquiry as the present. The fact is not to be lightly regarded, that, the two great parties by which the church of England is divided having been distinguished, the further state of conflict and difference of opinion,—scarcely less miserable and fatal than the one great and fundamental difference,—is to be found chiefly, if not entirely, amongst yourselves. It begins with the attempt to bring back Catholic teaching and Catholic faith into the reformed church of England, and into agreement with her articles and prayer book.

There is another point to which I had intended to direct your attention; namely, to the contradictions which appear to exist between the course of teaching which many of your party commonly adopt and the 39 articles, together with an enquiry into the kind of interpretation, and its admissibility, by which such apparent contradictions are avoided. It is, of course, in itself a relief openly to state a mode of interpretation, and to leave to one's rulers to decide by legal proceedings, whether it is, or is not, within the limits of subscription. But I shall now pass this by. Some two or three considerations, however, which may be more briefly discussed, will come within my present purpose.

Scarcely a word need be said of the unbounded (—really there is no other term—) of the unbounded

variety of opinion upon essential and important doctrines of the Faith which exists among the clergy and people of the Established church. It is a fact notorious and undeniable: deplored as an evil by the majority; yet, regarded by not a few as a thing which is to be approved of rather than otherwise, and as evidence that the reformation has given freedom to tender consciences, or to the exercise of a large and charitable liberality. Such a variety of opinion must be a necessary consequence of the numerous doctrines which careful consideration will show have been left 'open' by your Church.

It is very commonly urged that this is owing to the bishops not having attempted, for the last hundred years, to restrain their clergy, and to enforce a greater unanimity of opinion and teaching; in short, to the want of discipline. Indeed it cannot be said that the complaints which have often been brought against the bishops, by persons of both classes of opinion, are all unfounded and untrue. I speak of the bishops as a body, ruling over, guiding, caring for their Church, their clergy, and their people.

* * * * * *

Yet, I must say, it is not quite just to charge the bishops, either of the last century or this, with entire responsibility for the state of confusion now existing; it is not quite just to accuse them of having caused it, solely by their neglect of the proper exercise of ecclesiastical discipline.

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for the catholic doctrine. 'What is the inward part or thing signified?[1] The Body and Blood of Christ, which are verily and indeed taken and received by the faithful in the Lord's Supper.' Still to all appearance, making the reality of the Presence to depend upon the faith of the recipient. At the risk of weary repetition, let me once more say, that of course this place of the catechism does not assert that the Body and Blood of Christ are not verily and indeed taken by all: and if there were in other parts of the formularies any thing even approaching to a statement of the reality of the Presence of our Blessed Lord in the consecrated bread and wine, independently of any qualifications or dispositions in the soul of the receiver, you might be able to show at once and distinctly that these passages in the liturgy and catechism cannot justly mean what they are usually brought forward to prove. You will fare no better, if you turn to the articles: remembering, beforehand, that it is for you to show, in a way which shall commend itself to the apprehension of common, simple, and unlearned minds, the distinction which exists between the doc-

[1] The learned reader is doubtless acquainted with the theological distinction between the *sacramentum* and the *res sacramenti*. But it is not, in any way, according to my present purpose, to enter into this subject. Scholastic distinctions, excellent as they are, are of value only in enabling you to show that the words of the formularies are not necessarily to be taken in the 'evangelical' sense: that is, that the formularies are drawn up with such subtlety and acuteness, as to admit either the high-church or the low-church interpretation: sometimes leaning apparently to the one, sometimes to the other: but, as I have said above, on several main points their tendency generally and as a whole seems, at first sight, to favour the last.

trines of the Real Presence and of Transubstantiation. For 'Transubstantiation,' according to the 28th article, 'is repugnant to the plain words of Scripture.' The same article declares, that 'the Bread which we break is a partaking of the body of Christ, and the Cup of Blessing is a partaking of the Blood of Christ to such as rightly, worthily, and with faith, receive the same.' And, as if it were to shut out all further controversy upon the matter—not, of course, that you will allow it does so shut it out—a few lines below it is said that 'the mean whereby the Body of Christ is received and eaten in the Supper is Faith.'[1]

[1] I have heard both clergy and laity of the church of England—and that within the last twelve months [1850]—declare that they accept and believe all Christian truth, as it is explained in the decrees and canons of the council of Trent. With regard to such a statement by any of the laity, it is curious, to say the least of it: and, probably, was never made by any one who had read and understood the Tridentine canons. But as to clergymen, ignorance cannot be supposed: and for them, bound as they are by subscription to the formularies, thus to speak, has always seemed to me amongst the greatest of all achievements of human intellect. Subtle as we know the mind of man to be, and wide its range, I cannot but confess that the more I think of it, the more I am amazed at so wonderful an example of its power and capability.

There are not, perhaps, many minds so large: I cannot tell. But there have not been many Homers, Platos, or Isaac Newtons.

The sentence in the text above has reminded me of this remarkable fact, which seems worth a passing observation in a note. Let us take one question, concerning which, to the common run of minds, the articles of the reformed church of England and the canons of Trent do seem to differ. The one asserts that, 'The Body of Christ is given, taken, and eaten, in the Supper, only after an heavenly and spiritual manner.' The other has this language; '*Sess.* xiij. *can.* viij. If any one saith, that Christ, given in the Eucharist, is eaten spiritually only, and not also sacramentally and really, let him be anathema.'

If the article chiefly meant 'received and eaten *beneficially*,' it might have said so: the addition of that one word would not have proved and established the acceptance of the truth for which you contend, but at any rate it would have removed almost all the force of the argument against you: and you are bound not to forget that the word 'beneficially,' or some word equivalent, is *not* in the article.

So much then, on the point of the general apparent agreement of the formularies of the church of England, in their first and obvious meaning, with the teaching of those who differ from you, rather than with your own.

* * * * * *[1]

People often say, it is wrong to use such terms as 'the spirit of the reformed English church'; or, 'its intention,' 'purpose,' and the like. And is it really so? was the reformation nothing? did it effect nothing, change nothing, remove nothing? is the condemnation of several doctrines by the Catholic church, —doctrines accepted by the church of England for the first time in the sixteenth century,—a mere matter of words; or, is there not rather some essential difference, after all, in the 'spirit' of the teaching

[1] Two or three pages are here omitted. They contained remarks which now (1869) I am bound to acknowledge are not applicable, or at any rate not to the same extent as in 1850. Those remarks condemned what was at that time undeniably a common practice amongst high-churchmen, namely, reserve in their public teaching as compared with their practice. This, more especially, with regard to the reception of penitents in private confession.

of the two communions?[1] and if there be a difference and distinction, does it, or does it not, tend, with you, to the acceptance of the evangelical more than of the high-church party? No doubt the reformed church of England claims to be a portion of the Holy Catholic Church: and it has been common for many to add also the assertion, that she rejects and condemns, as being out of the Church Catholic, the reformed churches abroad, Lutheran, Genevan, and others, together with the kirk of Scotland or the dissenters at home. Upon your principles—nay, on any consistent church principle at all—such a corollary must follow. But there is a strangeness in it: it commends itself, perhaps, to the intellect, but not to the eye and ear; nor, it may be, to the heart and conscience. Is there so great a difference between the reformed churches abroad, or the presbyterians, or the better kinds of dissent,—the Wesleyans, for example,—and your own, as between the modern English church and Rome? Which does your Church most resemble, in doctrine, ceremonies and practice? I say, practice, especially: for it is in practice, and in the doing of common, daily, duties, that as time goes on the tendencies of articles of faith, or of doctrine, are declared. What then is commonly thought and said—and the voice of the multitude is sometimes right—when men

[1] In the year 1714, a Form of admitting converts from the church of Rome was prepared for convocation, in which the 'penitent' was required to renounce 'the errors of the present Roman church,' and, if in holy orders, to reject all the 12 articles of the creed of pope Pius IV. and to acknowledge the royal supremacy 'as by law established.' *Wilkins*. concil. iv. 661.

are seen to imitate Roman forms and ceremonies, or to advocate the observance of forgotten rules of holy living and self-denial?[1] Again; it is usual for numbers to unite with dissenting teachers for various religious purposes: English clergymen will join with them in prayer, or on the platform: English laity will frequently go to listen to their preaching:—to church perhaps in the morning; to 'meeting' in the evening: and how frequent is the remark of the lower classes; 'I have no *objection* to come to church':—now, whatever of wrongness there may be about such conduct as this, do we ever find any thing in any degree like it with regard to the church of Rome? Do the common people ever go, in the same manner, to Catholic chapels? What would you say of them if they did? And would they see the same interior arrangement, or listen to sermons which might

[1] Illustrations are often useful: I give the following remarks which a bishop [Dr. Denison, the late bishop of Salisbury.—1869.] —himself very far indeed from being what is called evangelical in his opinions—made to a clergyman, a friend of mine, who had been complained of for adopting Roman practices: the particular objections in this case were bowing at the Gloria, and standing before the altar. 'I cannot understand,' the bishop wrote, 'how any man can place himself, his affections, and sympathies, so totally in opposition to the authority which he has sworn to obey, and to the church in which he ministers. When I look at the spirit and tone of the church of England, I am at a loss to reconcile such a course of action with my sense of what is right and true and straightforward.' Then going on to speak of a late secession to the church of Rome, he continued; 'I hope it will be a lesson to those who use Roman Catholic books of devotion: and I can only say, the sooner they follow such an example the better: they are disloyal and dishonest members of the church of England.'

equally well be preached in half the parish churches of the land?

It is now [April, 1850] more than three months since the last pages of this Letter were written. The rumours which, in January, became prevalent as to what the decision of the judicial committee, in the case of Mr. Gorham, would probably be, prevented my going on with some further remarks, bearing on the subject which we have been discussing.

On the other hand, although additions have been made, I do not recall one sentence which had, at that time, been written: if you think such a fact, as a declaration that the truth of baptismal regeneration is an open question in the church of England, encreases the weight of the difficulties already spoken of, I should be unwilling to dispute it.

Yet; can it be possible that the formularies of the reformed church of England do not teach the doctrine of baptismal regeneration to be undeniably a certain truth of the Christian Faith?—again we ask, *do they not even teach that doctrine?*—what a reformation!

And what have you to fall back upon? where are you? can you rest upon 'opinions' which demand of you to *believe* either a great deal too much, or a great deal too little? upon opinions, which—call them by what name you will—will lead men most surely, by a longer or a shorter road as they may choose to tread it, either to Rome or infidelity.

Are not your minds very strangely confused? are

you not labouring under doubts, which are doubts only because you refuse to be resolved? why do you hesitate, and dispute and differ amongst yourselves, but because you wish, and are determined (if it be possible), not to see things as they really are; because you are determined to reconcile things irreconcilable, and to justify that which, upon your own principles, is not to be justified?

I do not care to argue whether one such event, as this decision on the doctrine of holy baptism, is sufficient to unchurch the church of England; it may, or it may not be; but we need not enter upon the enquiry, until you can show that it is the sole difficulty with which, upon high-church principles, you have to deal, and not one among many. As a single circumstance, its extreme importance arises from the fact, that regeneration in holy baptism having been supposed to be more clearly taught in the reformed Church, than any Catholic truth whatsoever, we now discover that even this is, after all, equally with other essential points of the Christian Faith, a matter of 'opinion.' If the judgment of the court of Arches had been affirmed, distinctly and unequivocally, you might perhaps have hoped to have gone on to establish the complete doctrine of sacramental grace. But there can be no doubt that with the permitted denial of the unconditional efficacy of baptism in the case of infants, the vital truth of sacramental grace is declared also to be an 'open question.'

Besides, it is not necessary to pretend to know the dealings of Almighty God with men and nations so

accurately as to attempt to lay one's finger, in a positive manner, upon special acts, and distinguish the one or two or three, which should in themselves avail to cut off any portion of the One Holy Catholic Church. And, as regards the church of England in particular, it may be, that the so-called reformation contained—perhaps unknown to the original promoters of it—poisonous seeds of evil, bringing in certain though slow decay: and that either new principles were then secretly established, which in their development would most surely lead to the destruction and confusion of essential truths, or old principles were, in ignorance, given up, which the gradual course of time would prove to be necessary, because they lie at the very foundation of Christianity itself. Or, once more, it may be with portions of the Church Catholic as with the Vine, her mysterious type. 'I am the Vine, ye are the branches,' were the words of our Blessed LORD, speaking of His Body, the Church, of which He is Himself the Head. And we may well conceive how a branch, full of sap and vigour, may be severed from the stem, and yet for a period—longer or shorter—still continue to put forth leaves, and perhaps the blossoms of fruit also; nevertheless, cut off all the while, and severed; requiring time to die, but death itself inevitable at last.

Let me, in this place, sum up briefly what has been said, in the two Letters which I have written to you.

1. That the Crown, at the time of the Reformation,

and since that time, in virtue of the supremacy, has claimed, and exercised, the right of finally deciding ecclesiastical causes, involving doctrine;—that this right has been sanctioned, established, and maintained by several statutes of the realm; and both recognized and insisted on by canons and articles of the Established Church, as accordant with the true spirit of the Gospel;—and that the clergy have promised obedience to the due and legal exercise of this same right.

2. That the decision in the particular cause of Mr. Gorham against the bishop of Exeter explains, to some extent, the dogmatic teaching of the reformed church of England upon the sacrament of holy baptism.

3. That the judgment of the Judicial Committee in that cause is probably a correct and true judgment; and, if it be so, that the reformed church of England did not, and at the present time does not, exclusively require her clergy to teach, and her people to believe, the unconditional efficacy of baptism in the case of all infants.

4. That the two questions of the royal supremacy and of baptismal regeneration are not the only difficulties in which you are involved.

5. That the reformed church of England, deliberately and advisedly, has left many essential doctrines of the Christian Faith to be received as 'matters of opinion.'

6. That the Evangelical clergy, as a party, no less than the Anglican, [ritualist,] or high-church party,

represent and carry out the spirit and the system of the English reformation, as declared by contemporary authorities, and sanctioned by the existing formularies.

7. That your church for 250 years has been in full communion with the established church of Ireland, in which church heresy has been synodically and formally received and taught, and 'the essential meaning of an article of the Creed abandoned.'

Upon these grounds it is, that I cannot [1850], I dare not, offer to give any support or aid to those who seem to be desirous of struggling for the church of England, as if the doctrine of baptismal regeneration were the sole question in dispute, or the only doctrine for which they must contend.[1]

[1] 'We shall be very much mistaken, if we presume that we may hold a single great doctrine of the Gospel, and be at liberty to accept or not, as we think it agreeable, other doctrines which rest upon precisely the same foundation, and which are supported by the like kind of evidence. For example, it is almost idle to insist upon the truth of regeneration in holy baptism—unless we are prepared to believe and to teach other truths of the one same chain of doctrine, no less important, whether in regard of faith or practice. As a matter of mere argument and speculation, rather than of reality, we may perhaps accept this one and not that: may (so to speak) pick and choose: far otherwise, however, if we remember what we are doing; if we can but bring ourselves to the conviction that we are not disputing and enquiring about dialectical subtleties, but about the deep things of God; about His dealings with sinful and fallen man; about eternity; about the application of the mystery of the Incarnation of the Son of God, God Himself, to the soul and body of each member of the church; about questions which, dispute as long as we will, are, in some one sense and meaning, true, independent utterly of us, and only in that sense are true.'—*Enquiry into the Doctrine of the Church of England upon Absolution.* 1848. 8vo.

* * * * * * [1]

You will find no remedy in evasions, and in temporising, and in compromise: nor will it be found,—so that you may think fearlessly of the Great Day in which men must give account,—in attempts to make the church of England last for your own time, careless of the deposit and the heritage which you are bound to deliver onwards to your children, and your children's children.

* * * * * *

Even upon the subject of baptism, it is not an opinion or judgment of the bishops upon Mr. Gorham's particular heresy which you require; but a new, full, and intelligible canon or article of faith, put forth synodically by the reformed church of England, plainly declaring, as exclusively true, the entire

[1] The pages here omitted contained remarks upon (as it seemed) the supineness and cowardice of the English bishops. Whether true or not, there is no need now to reproduce them. But, amongst the bishops, I made *one* exception. And I would repeat now, that there are no words in which members of the established Church, anxious for the Truth, can sufficiently express all that they ought to feel towards him of gratitude and regard. 'He, alone,' I said, 'of all the bishops has endeavoured to vindicate the Catholic claims which others have feebly spoken of: he, alone, has dared to keep the promise which he made at his consecration, 'to drive away all erroneous and strange doctrine contrary to God's word:' he, alone, has had trust enough in the power and reality of the Christian Faith, to labour in its defence, unsupported, amidst calumny and opposition and reproach.' Need I explain that I was speaking of the bishop of Exeter? Need I add that the prayer then uttered for every blessing upon him is now, if possible, more earnest and more sincere?—1869.

Catholic doctrine of the sacrament of holy Baptism. I say, without fear of contradiction by any one who holds that doctrine, that nothing less than this can be sufficient.[1]

* * * * * *

If, in the dispensations of the Most High, the time at last has come when the discords amongst you must be settled, either the one way or the other, do not, playing with your peril, loosely talk about hopes and prospects; and of life and zeal; and of Catholic minds and Catholic wishes. You may regret that your lot is cast in troubled days: but it would be as wise to deny that the sun shines in heaven, as refuse to admit the fact—grieve over it how you will—that there are two great parties in the church of England: and that the contest now begun must end—sooner or later—in the victory of the one over the other. It is a weighty particular among the difficulties against which you are opposed, that 'toleration,' and 'liberality,' and 'communions wide enough to embrace both,' and 'open questions,' and 'matters of opinion,' are terms and cries which may not be uttered in the same breath with a right defence of vital doctrines of the One Catholic Faith. You must ever remember, that any portion of the Church, which, acting advisedly and deliberately, fails to teach exclusively essential Christian truths, *permits* error: and, I sup-

[1] [Nearly twenty years have passed away since the above was written. I affirm, now, that the prospect of such a decision is simply beyond the expectation or reasonable hope of any man.]

pose, few among you would be prepared to say, that such deliberate *permission* is not fatal.

One thing you certainly have no right to expect: namely, an audible or visible interposition of Almighty God. It may, of course, be disputed whether this or that event be, or be not, a sign and token by which you are to be guided. But you must not wait to see His handwriting on the wall, or to hear His voice, as once of old time, saying, 'Let Us depart.' Such are not the usual dealings of God with man.

Ever, your sincere friend,

W. M.

April 8th, 1850. *April 3rd*, 1869.

APPENDIX TO EDITION OF 1850.

I HAD intended to have taken the present opportunity [*April*, 1850] of making such replies as I could, to any objections and arguments which had been published, during the last six weeks, in answer to my First Letter on the Royal Supremacy. But the fact which I now have to remind the reader of, is this; namely, that there has been *no answer* at all. [Nor has there been, since.]

Many remarks have been made upon the tone and temper of that Letter: upon the line of argument being 'offensive,' or 'disloyal;' and its general treatment 'cold,' 'hard,' 'technical,' 'literal,' and the like.

But there has been nothing, which can be called an answer, offered against the argument and facts produced.

Some have said that I have ascribed to 'the church of England, on the strength of certain *acts of parliament*, the most Erastian doctrines possible.' *English Review; Guardian;* and other periodicals. This is untrue; I referred, especially and chiefly, to the words of the reformed church, as we find them in her canons, articles, and ordinal. And no man would have wished so to misrepresent my statement, except one who knew that the strength of the difficulty which is involved in the question of the royal supremacy, does not lie in acts of parliament and in claims made by the civil power, but in the repeated acknowledgement and recognition of it which has been agreed to and insisted on by the Establishment itself.

An old and dear friend has printed a Letter on the subject:[1] of which I would say, that no one felt more

[1] A Letter, &c. by the Rev. M. W. Mayow.

deeply than myself, both the great ability and truthfulness with which it was written, and its spirit of unshaken loyalty and devotion to the reformed English Church. But, as it was not intended to be an answer to the facts stated in my First Letter, so it seemed to me to fail in meeting the real difficulty of the case. Its point was, that even granting an ambiguity to exist in our formularies, yet it might have been an inadvertence at the time when our prayer book and articles were put forth, and that we must prove that the Church of England at the reformation *intended* that there should be such an ambiguity. This, however, is a line of argument which must admit that which has been so energetically denied to bear upon the question at issue, namely, the opinions of the reformers and divines of the sixteenth century. And it is to be remembered, that if such are to be referred to, as evidence of the animus of the Church upon the doctrine of baptism, so they must equally be appealed to upon the doctrines, for example, of the eucharist and sacramental grace. In short it is making use of an argument wisely and long repudiated by the high-church party.

I cannot refrain from citing one passage from this Letter. Mr. Mayow says: 'Let me be well understood. If such ambiguity of language be intentional on the part of the church; if she can be proved to have *desired* in drawing up her articles and services to admit two interpretations on baptismal regeneration: if it be her view and plan to include two such opposite parties within her as those represented by Mr. Gorham and the bishop of Exeter, by such ambiguous and therefore comprehensive language, I most fully admit she stands convicted of unpalliated heresy both in form and matter.' p. 9. Instead of *baptismal regeneration* in the above sentence, put *the Eucharist*, or *justification*.[1]

There is one other pamphlet on which I must say a word

[1] Will Mr. Mayow now say, whether the twenty years which have gone by prove any *desire* or *intention*? (He has been, himself, an active member of Convocation.) If not, will the next twenty, or fifty, be sufficient?—1869.

or two. More than it deserves for its own sake, but because of the importance which some, who have not been able to find anything better, have pretended to give to it. I mean a publication on 'The present crisis in the church of England, by W. I. Irons, B.D. vicar of Brompton. 1850.'[1]

Mr. Irons endeavours to show that the Royal Supremacy was equally exercised before as well as since the reformation: and he tells us of various interferences on the part of the Crown between the conquest and the sixteenth century. Of these it must suffice to say, that not one of them bears in the slightest degree upon the true difficulty of the position now. Not one of them is a true example of any claim made by the Civil Power finally to determine spiritual causes involving doctrine, together with evidence, or anything in the remotest way like evidence, of consent given to such a claim by the ancient church of England. Instances of persecution, and injustice, and violence, some of Mr. Irons's cases are; but they are instances of nothing more: in short, they serve to confirm the novelty of the present powers vested by the Church in the Crown. And if the learned writer had even taken time to give us references to his own authorities, it might possibly have been sufficient also to have enabled him to see a little more clearly what is the real question in dispute.

Mr. Irons mentions, however, the Constitutions of Clarendon. I would not pass by these altogether, because of the reference which some other writers have also lately made to them.

The 8th of these constitutions is that which is supposed to bear upon the present power to determine finally ecclesiastical causes, claimed by the Crown. As printed by Mr. Irons it reads thus: 'That all appeals in *spiritual* causes [the italics are Mr. Irons's] should be carried from the archdeacon to the bishop, from the bishop to the primate, from him to the king, and should be carried no further without the king's consent.' This seems to have been taken from Hume's history (vol. i. p. 351), and, with deference to the

[1] [I believe that, for his merits, he has since been made a D.D.]

further researches of so very learned a writer, there is nothing in the original constitution which answers to the translation 'appeals in *spiritual* causes.' The words 'in spiritual causes,' are interpolated, and Mr. Irons's italics had better not have been ventured upon.

For, on the contrary, there is an epistle of Gilbert Foliot, at that time bishop of London, and of the king's party against the archbishop of Canterbury, which explains to us in what sense we are to understand the word 'appeals,' as meant and intended by the king. The bishop is writing to the pope, Alexander the third. 'In appellationibus ex antiqua regni sui constitutione id sibi vindicat honoris et oneris, ut ob civilem causam nullus clericorum regni sui ejusdem regni fines exeat, nisi an ipsius authoritate et mandato jus suum obtinere queat, experiendo cognoscat. Quod si nec sic obtinuerit, ad excellentiam vestram, ipso in nullo reclamante, cum volet quilibet appellabit. In quo si juri vel honori vestro præjudicatur in aliquo, id se totius ecclesiæ regni sui consilio correcturum in proximo, jurante Domino, pollicetur.' *Epist. S. Thomæ Cantuar.* xxxviij. p. 60. So that the causes which are spoken of in the Constitutions of Clarendon, according to the intention of Henry the second himself, are civil causes, and *not* spiritual; a distinction which, as most people will agree, carries with it a difference.

Whether Mr. Irons will acknowledge this is nevertheless, to my mind, somewhat doubtful. Because he is prepared to hold and (I suppose) believe, that 'the spirit of the [English] Reformation was altogether hostile to the royal supremacy; and even when yielding to it, it was able at length to modify it.' p. 19. I cannot consent to discuss a very serious question, agitating men's minds to an extent unknown and unfelt for generations, when it is presented to us in so strange a disguise.

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and since that time, in virtue of the supremacy, has claimed, and exercised, the right of finally deciding ecclesiastical causes, involving doctrine;—that this right has been sanctioned, established, and maintained by several statutes of the realm; and both recognized and insisted on by canons and articles of the Established Church, as accordant with the true spirit of the Gospel;—and that the clergy have promised obedience to the due and legal exercise of this same right.

2. That the decision in the particular cause of Mr. Gorham against the bishop of Exeter explains, to some extent, the dogmatic teaching of the reformed church of England upon the sacrament of holy baptism.

3. That the judgment of the Judicial Committee in that cause is probably a correct and true judgment; and, if it be so, that the reformed church of England did not, and at the present time does not, exclusively require her clergy to teach, and her people to believe, the unconditional efficacy of baptism in the case of all infants.

4. That the two questions of the royal supremacy and of baptismal regeneration are not the only difficulties in which you are involved.

5. That the reformed church of England, deliberately and advisedly, has left many essential doctrines of the Christian Faith to be received as 'matters of opinion.'

6. That the Evangelical clergy, as a party, no less than the Anglican, [ritualist,] or high-church party,

represent and carry out the spirit and the system of the English reformation, as declared by contemporary authorities, and sanctioned by the existing formularies.

7. That your church for 250 years has been in full communion with the established church of Ireland, in which church heresy has been synodically and formally received and taught, and 'the essential meaning of an article of the Creed abandoned.'

Upon these grounds it is, that I cannot [1850], I dare not, offer to give any support or aid to those who seem to be desirous of struggling for the church of England, as if the doctrine of baptismal regeneration were the sole question in dispute, or the only doctrine for which they must contend.[1]

[1] 'We shall be very much mistaken, if we presume that we may hold a single great doctrine of the Gospel, and be at liberty to accept or not, as we think it agreeable, other doctrines which rest upon precisely the same foundation, and which are supported by the like kind of evidence. For example, it is almost idle to insist upon the truth of regeneration in holy baptism—unless we are prepared to believe and to teach other truths of the one same chain of doctrine, no less important, whether in regard of faith or practice. As a matter of mere argument and speculation, rather than of reality, we may perhaps accept this one and not that: may (so to speak) pick and choose: far otherwise, however, if we remember what we are doing; if we can but bring ourselves to the conviction that we are not disputing and enquiring about dialectical subtleties, but about the deep things of God; about His dealings with sinful and fallen man; about eternity; about the application of the mystery of the Incarnation of the Son of God, God Himself, to the soul and body of each member of the church; about questions which, dispute as long as we will, are, in some one sense and meaning, true, independent utterly of us, and only in that sense are true.'—*Enquiry into the Doctrine of the Church of England upon Absolution.* 1848. 8vo.

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